

M. Miller

MINUTES
OF THE *C. & D. & C.*
GRAND COMMITTEE
OF THE WHOLE
CONVENTION
OF THE
Delaware State,

Which commenced at *Dover*, on *Tuesday*, the Twenty-ninth Day of *November*, in the Year of our Lord One Thousand Seven Hundred and Ninety-one,

For the Purpose of Reviewing, Altering, and Amending the Constitution of this State; or, if they see Occasion, for forming a new One in Stead thereof.



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Which commenced at Dover, on Tuesday, the Twenty-ninth day of November, in the Year of our Lord One Thousand Seven Hundred and Ninety-one.

Tuesday, A. M. December 6. 1791.

GEORGE MITCHELL, Esq; in the Chair.

On Motion of Mr. Ridgely, seconded by Mr. Dickinson,
Resolved unanimously, That the present Constitution of this State requires Amendments.

On Motion of Mr. Dickinson, seconded by Mr. Batson,
Resolved unanimously, That the *Declaration of Rights* should be amended in such Manner, as more particularly to enumerate, and more precisely to define, the Rights reserved out of the general Powers of Government; and to render it consistent with the Constitution to be agreed upon.

A Motion was made by Mr. Dickinson, seconded by Mr. Ridgely, in the following Words:

Resolved, That the Legislative Power of this State shall be vested

vested in a General Assembly, which shall consist of a Senate and House of Representatives.

On the Question to adopt the Resolution, the Yeas, and Nays being required by Mr. Ridgely, were as follow :

Yeas.

Messrs. Dickinson,
Montgomery,
Armstrong,
Johnson,
Haughey,
Monro,
Tatnall,
Johns,
Ridgely,
Clayton,
Holliday,

Yeas.

Messrs. Emmerson,
Morris,
Sykes,
Bassett,
Cooper,
Mitchell,
Batson,
Robinson,
Shankland,
Beauchamp,
D. Polk.

Nays.

Messrs. Roche,
Coram.

So it was resolved in the Affirmative.

A Motion was made by Mr. Ridgely, seconded by Mr. Batson, in the following Words :

Resolved, That the Representatives shall be chosen annually, by the Citizens residing in the several Counties respectively.

It was moved by Mr. Johns, seconded by Mr. Dickinson, That the Word *Counties* be struck out.

On the Question, Shall the Word proposed to be struck out stand?—The Yeas and Nays being required by Mr. Haughey, were as follow :

Yeas.

Messrs. Ridgely,
Clayton,
Holliday,
Emmerson,
Morris,
Sykes,
Bassett,

Yeas.

Messrs. Cooper,
Mitchell,
Batson,
Robinson,
Shankland,
Beauchamp,
D. Polk.

Nays.

Nays.

Messrs. Dickinson,
Montgomery,
Roche,
Johnson,
Haughey,

Nays.

Messrs. Monroe,
Tatnall,
Coram,
Johns.

So it was determined in the Affirmative ;

And the Question to adopt the proposed Resolution was then put,

And determined in the Affirmative.

Resolved, That the Committee rise, report Progress, and desire Leave to sit again in the Afternoon.

Tuesday, P. M. December 6. 1791.

On Motion of Mr. Batson, seconded by Mr. Haughey,

Resolved, That there shall be seven Representatives chosen in each County.

It was moved by Mr. Johns, seconded by Mr. Dickinson, to add to the last Resolution the following Words, viz. *until a greater Number of Representatives shall by the General Assembly be judged necessary ; and then, two Thirds of each Branch of the Legislature concurring, they may by Law make Provision for increasing their Number ;*

Which was determined in the Affirmative.

A Motion was made by Mr. Dickinson, seconded by Mr. Batson,

That the Senators shall be chosen for _____ Years, by the Citizens of the State, having Right to vote for Representatives.

It was then moved by Mr. Bassett, seconded by Mr. Dickinson, that the last Motion be postponed, in order previously to take into Consideration in what Manner the Executive shall be appointed ;

Which was determined in the Affirmative.

On Motion of Mr. Ridgely, seconded by Mr. Batson,

Resolved, That the Supreme Executive Power of this State shall be vested in a Governor.

A Motion was made by Mr. Ridgely, seconded by Mr. Coram,

B

That

That the Executive Power shall be kept distinct and separate from the Legislative Department of Government.

It was moved by Mr. Dickinson, seconded by Mr. Bassett, that the last Motion be postponed, for the Purpose of taking into Consideration in what Manner the Governor shall be appointed;

Which passed in the Negative.

On Motion of Mr. Bassett, seconded by Mr. Sykes, Resolved, That the Committee rise, report further Progress, and ask Leave to sit again To-morrow.

Wednesday, December 7. 1791.

The Motion made Yesterday by Mr. Ridgely, seconded by Mr. Coram, recurring, viz.

That the Executive Power shall be kept distinct and separate from the Legislative Department of Government.

It was moved by Mr. Dickinson, seconded by Mr. Bassett, that the last Motion be amended by adding the following Words, viz. *as far as can be, without any Danger of impairing the Advantages that may be derived to the good People of this State, from the most mature Deliberation in the making of Laws.*

On the Question to adopt the Amendment, the Yeas and Nays being required by Mr. Ridgely and Mr. Dickinson, were as follow :

Yeas.

Messrs. Dickinson,
Montgomery,
Armstrong,
Bassett,
Mitchell,

Yeas.

Messrs. Haughey,
Monro,
Sykes,
Robinson,
D. Polk.

Nays.

Messrs. Roche,
Johnson,
Tatnall,
Coram,
Johns,
Ridgely,
Clayton,
Emmerson,

Nays.

Messrs. Morris,
Dill,
Molleston,
Cooper,
Batson,
Shankland,
Beauchamp,
Collins.

So it passed in the Negative.

On

On the Question to adopt the original Motion,
It was resolved unanimously in the Affirmative.

The Committee rose to report further Progress, and ask
 Leave to sit again To-morrow.

Thursday, December 8. 1791.

On Motion of Mr. Dickinson, seconded by Mr. Johns,
Resolved, That the Governor shall be chosen by the Citizens
 of the State, having Right to vote for Representatives.

The Motion made on the 6th Instant by Mr. Dickinson,
 seconded by Mr. Batson, now recurring, viz.

That the Senators shall be chosen for Years by the
 Citizens of the State, having Right to vote for Representa-
 tives.

It was moved by Mr. Ridgely, seconded by Mr. Bassett,
 That the last Motion be amended, to read as follows :

That the Senators shall be chosen for Years by
Electors, to be chosen by the Citizens of the State, having Right
 to vote for Representatives.

On Motion of Mr. Dickinson, seconded by Mr. Batson,
Resolved, That the Committee rise to report further Pro-
 gress, and ask Leave to sit again To-morrow.

Friday, December 9. 1791.

The Motion made Yesterday by Mr. Ridgely, seconded by
 Mr. Bassett, recurring, viz.

That the Motion made on the 6th by Mr. Dickinson, se-
 conded by Mr. Batson, be amended, to read as follows :

That the Senators shall be chosen for Years by
Electors, to be chosen by the Citizens of the State, having Right
 to vote for Representatives.

On the Question to agree to the Amendment, the Yeas and
 Nays being required by Mr. Ridgely and Mr. Haughey, were
 as follow :

Yeas.

Messrs. *Monro,*
Tatnall,
Johns,
Ridgely,
Clayton,

Yeas.

Messrs. *Morris,*
Sykes,
Bassett,
Cooper,
Batson,

Yeas.

Yeas.

Messrs. *Emmerson,*
Shankland,
Beauchamp,

Yeas.

Messrs. *Robinson,*
D. Polk,

Nays.

Messrs. *Montgomery,*
Dickinson,
Armstrong,
Rocbe,
Johnson,
Haughay,

Nays.

Messrs. *Coram,*
Dill,
Molleston,
C. Polk,
Collins.

So it was determined in the Affirmative :

And on the Question, the Motion as amended, was adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Bassett, that the Judicial Power of this State shall be vested in a Supreme Court and in a Court of Common Pleas; with concurrent Jurisdiction, the Judges to hold their Commissions during good Behaviour; and in such other Courts to be so arranged, that the Advancement of Justice in the easiest, speediest, and best Manner may be obtained.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow.

Saturday, December 10. 1791.

The Motion made Yesterday by Mr. Dickinson, seconded by Mr. Bassett, recurring, viz.

That the Judicial Power of this State shall be vested in a Supreme Court and in a Court of Common Pleas, with concurrent Jurisdiction, the Judges to hold their Commissions during good Behaviour; and in other Courts to be so arranged, that the Advancement of Justice in the easiest, speediest, and best Manner may be obtained.

It was resolved in the Affirmative,

And the Report of the Committee of the Whole agreed to as follows, viz.

1. That the present Constitution of this State requires Amendments.

2. That

2. That the *Declaration of Rights* should be amended in such Manner, as more particularly to enumerate, and more precisely to define, the Rights reserved out of the general Powers of Government; and to render it consistent with the Constitution to be agreed upon.

3. That the Legislative Power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

4. That the Representatives shall be chosen annually by the Citizens residing in the several Counties respectively,

5. That there shall be seven Representatives chosen in each County, until a greater Number of Representatives shall by the General Assembly be judged necessary; and then, two Thirds of each Branch of the Legislature concurring, they may by Law make Provision for increasing their Number.

6. That the Senators shall be chosen for _____ Years by Electors, to be chosen by the Citizens of the State, having Right to vote for Representatives.

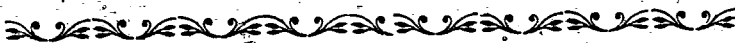
7. That the Supreme Executive Power of this State shall be vested in a Governor.

8. That the Executive Power shall be kept distinct and separate from the Legislative Department.

9. That the Governor shall be chosen by the Citizens of the State, having Right to vote for Representatives.

10. That the Judicial Power of this State shall be vested in a Supreme Court and in a Court of Common Pleas, with concurrent Jurisdiction, the Judges to hold their Commissions during good Behaviour; and in other Courts to be so arranged, that the Advancement of Justice in the easiest, speediest, and best Manner may be obtained.

The Committee then rose to make the said Report.



Monday, December 19. 1791.

Thomas Montgomery, Esq; in the Chair.

The Committee of the Whole proceeded to take into Consideration the Essay of a proposed Constitution of Government,

as reported by the Special Committee, on the Seventeenth Day of December, instant.

The first Section of the first Article of the proposed Constitution being considered, was unanimously adopted.

The second Section of the first Article being under Consideration, viz.

2. *It is the Duty of all Men frequently to assemble together for the publick Worship of the Author of the Universe; and Piety and Morality, on which the Prosperity of Communities depends, are thereby promoted; but no Man shall or ought to be compelled to attend any Religious Worship, to contribute to the Erection or Support of any Place of Worship, or to the Maintenance of any Ministry, against his own Free Will and Consent; and no Power shall or ought to be invested in or assumed by any Magistrates, that shall in any Case interfere with, or in any Manner controul the Rights of Conscience, nor a Preference given by Law to any religious Societies, Denominations, or Modes of Worship.*

It was moved by Mr. Ridgely, seconded by Mr. Clayton, to strike out the Words, *It is the Duty of all Men frequently to assemble together for the publick Worship of the Author of the Universe; and Piety and Morality, on which the Prosperity of Communities depends, are thereby promoted; but*
Which passed in the Negative:

And on the Question, the said second Section of the first Article, as reported, was adopted.

The third Section of the first Article was considered, and unanimously adopted.

The fourth Section of the first Article was considered, and unanimously adopted.

The fifth Section of the first Article being under Consideration, viz.

5. Trial by Jury shall be *as heretofore*.

It was moved by Mr. Ridgely, seconded by Mr. Johns, to strike out the Words *as heretofore*, and in Lieu thereof, insert the Words *preserved as defined by this Constitution:*

Which was determined in the Affirmative;

And, the said fifth Section, as amended, adopted, viz.

Trial by Jury shall be preserved as defined by this Constitution.

The

The Committee then rose to report Progress, and ask Leave to sit again To-morrow.

Tuesday, December 20. 1791.

The sixth Section of the first Article being under Consideration, viz.

6. The Press shall be free to every Citizen who undertakes to examine the official Conduct of Men acting in a public Capacity; and any Citizen may print on any Subject, being responsible for the Abuse of that Liberty. In Prosecutions for Publications investigating the Proceedings of Officers, or where the Matter published is proper for public Information, the Truth thereof may be given in Evidence; and in all Indictments for Libels, the Jury may determine the Facts and the Law, *as in other Cases.*

It was moved by Mr. Bassett, seconded by Mr. Johns, to strike out the Words *as in other Cases*:

Which was unanimously determined in the Affirmative;

And the said Section, as amended, was adopted.

The seventh Section of the first Article was considered, and unanimously adopted.

The eighth Section of the first Article was considered, and unanimously adopted.

The ninth Section of the first Article was considered, and unanimously adopted.

The tenth Section of the first Article being under Consideration, viz. /

10 All Courts shall be open; and every Man for an Injury done him in his Reputation, Person, moveable or immoveable Possessions, shall have Remedy by the due Course of Law, and Justice administered according to the very Right of the Cause, without Sale, Denial, or unreasonable Delay or Expence; and every Action shall be tried in the County in which it shall be commenced, *unless when the Judges of the Supreme Court, or of the Common Pleas, shall determine that an impartial Trial of a Cause cannot be had in that County.* Suits may be brought against the State according to such Regulations as shall be made by Law.

It was moved by Mr. Coram, seconded by Mr. Haughey, to strike out the Words, *unless when the Judges of the Supreme Court, or of the Common Pleas, shall determine that an impartial Trial of a Cause cannot be had in that County;*

Which passed in the Negative:

And

And on the Question to adopt the said Section, as reported ;
It was determined in the Affirmative.

The eleventh, twelfth, thirteenth, fourteenth, fifteenth, sixteenth, and seventeenth Sections of the first Article, were severally read, considered, and unanimously adopted.

The eighteenth Section of the first Article being under Consideration, viz.

18. The Right of the Citizens to bear Arms in defence of themselves and the State, shall not be questioned.

It was moved by Mr. Batson, seconded by Mr. Polk, to add to the Section the Words *whilst acting in strict Subordination to the Civil Power* :

Which passed in the Negative.

A Motion was made by Mr. Ridgely, seconded by Mr. Johns, to strike out the Words *the Citizens to bear Arms*, and, in Lieu thereof, insert the Words, *bearing Arms by Citizens qualified to vote for Representatives*.

It was then moved by Mr. Johnson, seconded by Mr. Clayton, to postpone the last Motion in order to introduce the following :

That there be added to the Section the Words *unless under such Pretensions, any Person disturb the Peace and Happiness, or Safety of Society*.

On the Question for Postponement,

It was determined in the Affirmative.

A Motion was then made by Mr. Bassett, seconded by Mr. Batson, to strike out the said Section,

Which was determined in the Affirmative ;

And the Section expunged.

The nineteenth, twentieth, and twenty-first Sections of the first Article, were severally read, considered, and unanimously adopted.

The Declaratory Clause subjoined to the first Article, was considered, and unanimously adopted.

On Motion of Mr. Dickinson, seconded by Mr. Bassett, That the Title of the proposed Constitution be, THE CONSTITUTION OF THE STATE OF DELAWARE ;

The Question was put, and

Unanimously determined in the Affirmative.

A Motion was made by Mr. Clayton, seconded by Mr. Morris, That the first and second Sections of the first Article be reconsidered;

Which was unanimously determined in the Affirmative.

The first Section having been read, the Committee rose to report further Progress, and ask Leave to sit again in the Afternoon.

Tuesday, P. M. December 20. 1791.

The first Section of the first Article recurring, viz.

1. GOD, of his infinite Goodness, so willing, all Men are by Birth free and equal, having united with their Nature, the Rights of Worshipping and Serving their Creator according to the Dictates of their Consciences, of enjoying and defending Life and Liberty, of acquiring and protecting Reputation and Property, and, in general, of attaining Objects suitable to their Condition, without Injury by one to another; and as these Rights are essential to their Welfare, for the due Exercise thereof, Power is by the Divine Benevolence inherent in them; and therefore all just Authority in the Institutions of political Society is derived from the People, and established with their Consent to advance their Happiness: And they may for this End, as Circumstances require, from Time to Time, alter their Constitution of Government.

It was moved by Mr. Clayton, seconded by Mr. Polk, to expunge the said Section, in order to introduce the following:

All Men have a natural and unalienable Right of enjoying and defending Life and Liberty, of acquiring and protecting Property and Reputation, and of pursuing their own Happiness: Therefore all Government of Right originates from the People, is established by their Consent only, and instituted solely for their Good; and whenever public Liberty is manifestly endangered, and the Rights of the People violated, they may and of Right ought to establish a new, or reform the old Government.

On the Question to expunge the Section,

It passed in the Negative.

A Motion was made by Mr. Dickinson, seconded by Mr. Haughey, to strike out the Words *are by Birth free and equal, having*, and in Stead thereof insert the Word *have*:

Which was determined in the Affirmative;

And the Section, as amended, adopted.

The second Section of the first Article recurring, viz.

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2.. It

2. *It is the Duty of all Men frequently to assemble together for the public Worship of the Author of the Universe; and Piety and Morality, on which the Prosperity of Communities depends, are thereby promoted; but no Man shall or ought to be compelled to attend any Religious Worship, to contribute to the Erection or Support of any Place of Worship, or to the Maintenance of any Ministry, against his own free Will and Consent; and no Power shall or ought to be invested in or assumed by any Magistrates, that shall in any Case interfere with, or in any Manner controul the Rights of Conscience; nor a Preference given by Law to any religious Societies, Denominations, or Modes of Worship.*

It was moved by Mr. Ridgely, seconded by Mr. Batson, to strike out the Words, *It is the Duty of all Men frequently to assemble together for the public Worship of the Author of the Universe; and Piety and Morality, on which the Prosperity of Communities depends, are thereby promoted; but,*

On the Question to agree to the proposed Amendment,
It passed in the Negative.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Wednesday, A. M. December 21. 1791.

The first Section of the second Article was considered and adopted.

The second Section of the second Article being under Consideration, viz.

2. The Representatives shall be chosen annually by the Citizens residing in the several Counties respectively, on the first Tuesday of October.

No Person shall be a Representative, who shall not have attained to the Age of *twenty-one Years*, and have, in the County in which he shall be chosen, a Freehold Estate in his own Right of the Value of one hundred Pounds at least, or personal Property of the Value of two hundred Pounds at least, and have been a Citizen and Inhabitant of the State three Years next preceding the first Meeting of the Legislature after his Election, and the last Year of that Term an Inhabitant of the County in which he shall be chosen, unless he shall have been absent on the publick Business of the United States or of this State.

There shall be *seven* Representatives chosen in each County, until a greater Number of Representatives shall by the General

ral Assembly be judged necessary ; and then; two Thirds of each Branch of the Legislature concurring, they may by Law make Provision for increasing their Number.

It was moved by Mr. Johns, seconded by Mr. Roche, to strike out the Words, *and have in the County in which he shall be chosen, a Freehold Estate in his own Right of the Value of one hundred Pounds at least, or personal Property of the Value of two hundred Pounds at least.*

On the Question, Shall those Words be struck out?—The Yeas and Nays being called by Mr. Haughey, were as follow:

Yeas.

Messrs. Dickinson,
Montgomery,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Coram,
Armstrong.

Yeas.

Messrs. Johns,
Bassett,
Dill,
Molleston,
Cooper,
C. Polk,
Beauchamp,
Collins.

Nays.

Messrs. Ridgely,
Clayton,
Holliday,
White,
Emmerfon,
Morris,

Nays.

Messrs. Sykes,
Mitchell,
Batson,
Robinson,
Shankland,
D. Polk.

So it was determined in the Affirmative.

On Motion of Mr. Mitchell, seconded by Mr. Bassett, to insert after the Words *twenty-one Years*, in the second Clause of the Section; the Words *paid a State or County Tax*;

It was unanimously determined in the Affirmative.

A Motion was made by Mr. Dickinson, seconded by Mr. Haughey, to strike out the Word *seven*, in the third Clause of the Section, and in Stead thereof insert the Word *nine*.

On the Question to adopt the Amendment, the Yeas and Nays being called by Mr. Ridgely and Mr. Batson, were as follow:

Yeas.

Messrs. Dickinson,
Montgomery,
Johnson,

Yeas.

Messrs. Haughey,
Monro,
Coram,

Nays.

Nays.

Messrs. ~~Armstrong,~~
 Roche,
 Tatnall,
 Johns,
 Ridgely,
 Clayton,
 Holliday,
 White,
 Emmerfon,
 Morris,
 Sykes,
 Bassett,

Nays.

Messrs. Dill,
 Mollenon,
 Cooper,
 Mitchell,
 Batson,
 Robinson,
 Shankland,
 C. Polk,
 Beauchamp,
 Collins.
 D. Polk.

So it passed in the Negative.

The said second Section of the second Article, as amended, was then adopted.

The Committee rose to report further Progress, and ask Leave to sit again in the Afternoon.

Wednesday, P. M. December 21. 1791.

The first Clause of the third Section of the second Article being under Consideration, viz.

3. The Senators shall be chosen in the following Manner: All Persons having Right to vote for Representatives in their several Counties, shall on the first Tuesday of October, in the Year One Thousand Seven Hundred and Ninety-two, *elect nine Persons* for their respective Counties (qualified as aforesaid to be elected Representatives) to be Electors of the Senate; which said Electors shall meet on the first Tuesday in November next at the Town of Dover; and they, or any eighteen of them, shall proceed to elect by Ballot, out of the People at large, nine Senators, three of them residing in each County, having the Qualifications herein after required: And that the Rotation of Senators herein prescribed may be for ever after kept up, all Persons having Right to vote for Representatives shall, at the same Time when, and in the same Manner as, they choose Representatives, for ever after annually elect three Persons for their respective Counties, qualified as aforesaid, to be Electors of the Senate; which said Electors, or any six of them, shall meet on the first Tuesday of November, annually, at the Town of Dover, or such other Place as shall be appointed by Law, and shall elect by Ballot, from the People at large, one Senator for each County, having the Qualification herein after required; and if two or more Persons shall have an equal Number of Ballots in their favour, by which the Choice shall not

not be determined on the first Ballot, then the Electors shall again ballot before they separate, in which they shall be confined to the Persons who, on the first Ballot, had an equal Number; and they who shall have the greatest Number in their favour on the second Ballot, shall be accordingly declared and returned duly elected; and if the whole Number shall not thus be made up, because of an equal Number of Votes on the second Ballot being still in favour of two or more Persons, then the Election shall be determined by Lot between those who have such equal Numbers.

It was moved by Mr. Bassett, seconded by Mr. Ridgely, to insert, after the Words *elect nine Persons*, the Words *being Freeholders*.

A Motion was then made by Mr. Batson, seconded by Mr. Johnson, to postpone the Consideration of the last Motion, in order to introduce, instead of the aforesaid first Clause of the third Section, the following:

The Senators shall be chosen for three Years by the Citizens residing in the several Counties respectively, having Right to vote for Representatives, at the same Time when they shall vote for Representatives, in the same Manner, and at the same Places.

On the Question to postpone,

It was determined in the Affirmative.

On the Question, Will the Committee adopt the proposed Amendment in Lieu of the aforesaid first Clause of the third Section?—The Yeas and Nays being called by Mr. Armstrong and Mr. Ridgely, were as follow:

Yeas.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Coram,

Yeas.

Messrs. Dill,
Molleston,
Mitchell,
Batson,
Shankland,
C. Polk,
Collins.

Nays.

Messrs. Johns,
Ridgely,
Clayton,
Holliday,
White,
Emmerfson,

Nays.

Messrs. Morris,
Sykes,
Bassett,
Cooper,
Robinson,
D. Polk.

So it was determined in the Affirmative.

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The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Thursday, A. M. December 22. 1791.

A Motion was made by Mr. Bassett, seconded by Mr. Johns, to re-consider the second Section of the second Article :

Which was determined in the Affirmative.

The said Section being read, viz.

The Representatives shall be chosen annually, by the Citizens residing in the several Counties respectively, on the first Tuesday of October.

No Person shall be a Representative, who shall not have attained to the Age of *twenty-one Years*, paid a State or County Tax, and have been a Citizen and Inhabitant of the State three Years next preceding the first Meeting of the Legislature after his Election, and the last Year of that Term an Inhabitant of the County in which he shall be chosen, unless he shall have been absent on the publick Business of the United States or this State.

There shall be seven Representatives chosen in each County, until a greater Number of Representatives shall by the General Assembly be judged necessary; and then, two Thirds of each Branch of the Legislature concurring, they may by Law make Provision for increasing their Number.

It was moved by Mr. Bassett, seconded by Mr. Cooper, to insert, after the Words *twenty-one Years*, the Words *and have in the County in which he shall be chosen, a Freehold Estate in his own Right of the Value of One Hundred Pounds at least, or personal Property of the Value of Two Hundred Pounds at least.*

On the Question to adopt the Amendment proposed, the Yeas and Nays being called by Mr. Bassett, were as follow :

Yeas.

Messrs. Ridgely,
Clayton,
Holliday,
White,
Emmerfon,
Morris,
Sykes,

Yeas.

Messrs. Bassett,
Cooper,
Batson,
Robinson,
Beauchamp,
D. Polk.

Nays.

Nays.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,

Nays.

Messrs. Coram,
Johns,
Dill,
Molleston,
C. Polk,
Collins,
Mitchell,
Shankland.

So it passed in the Negative.

A Motion was then made by Mr. Batson, seconded by Mr. Bassett, to insert after the Words *twenty-one Years* in the second Clause of the said Section, the following Words, viz. *and have a Freehold in the County in which he shall be chosen, or personal Property of the Value of Two Hundred Pounds at least, and*

On the Question to adopt the same, the Yeas and Nays being called by Mr. Roche, were as follow :

Yeas.

Messrs. Ridgely,
Clayton,
Holliday,
White,
Emmerfson,
Morris,
Sykes,
Bassett,

Yeas.

Messrs. Cooper,
Mitchell,
Batson,
Robinson,
Shankland,
Beauchamp,
D. Polk.

Nays.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,

Nays.

Tatnall,
Coram,
Johns,
Dill,
Molleston,
C. Polk,
Collins.

So it was determined in the Affirmative.

And the said Section, as amended, was adopted.

The Committee resumed the Consideration of the third Section of the second Article,——

And on the Question to expunge the second, third, and fourth Clause of the said third Section,

It was determined in the Affirmative.

The

The fifth Clause of the third Section of the second Article being under Consideration, viz.

No Person shall be a Senator, who shall not have attained to the Age of twenty-five Years, and have in the County in which he shall be chosen, a Freehold Estate in his own Right of the Value of Three Hundred Pounds at least, or personal Property of the Value of Five Hundred Pounds at least, and have been a Citizen and Inhabitant of the State three Years next preceding the first Meeting of the Legislature after his Election, and the last Year of that Term an Inhabitant of the County in which he shall be chosen, unless he shall have been absent on the public Business of the United States or of this State.

A Motion was made by Mr. Dickinson, seconded by Mr. Roche, to strike out the following Words of the said fifth Clause, viz. *and have in the County in which he shall be chosen, a Freehold Estate in his own Right of the Value of Three Hundred Pounds at least, or personal Property of the Value of Five Hundred Pounds at least.*

It was then moved by Mr. Mitchell, seconded by Mr. Sykes, that the last Motion be postponed, in order to introduce the following, viz.

To strike out the Words *his own Right of the Value of Three Hundred Pounds at least, or personal Property of the Value of Five Hundred Pounds at least*; and, instead thereof, insert the following Words, *Two Hundred Acres of Land, or an Estate in real or personal Property, or in either, of the Value of One Thousand Pounds at least.*

On the Question to postpone,

It was determined in the Affirmative.

On the Question, Will the Committee agree to strike out the Words, and instead thereof insert the proposed Amendment?—The Yeas and Nays being called by Mr. Haughey and Mr. Ridgely, were as follow :

Yeas.

Messrs. *Johns,*
Ridgely,
Clayton,
Holliday,
White,
Emmerson,
Morris,
Sykes,

Yeas.

Messrs. *Bassett,*
Molleston,
Cooper,
Mitchell,
Batson,
Robinson,
Shankland,
D. Polk.

Nays.

Nays.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,

Nays.

Messrs. Monro,
Tatnall,
Coram,
Dill,
C. Polk,
Collins.

So it was determined in the Affirmative.

The sixth and seventh Clauses of the third Section of the second Article were severally read, considered, and unanimously agreed to:

And the said third Section of the second Article, as amended, was adopted.

The fourth, fifth, sixth, seventh, eighth, ninth, tenth and eleventh Sections of the second Article, were severally read, considered, and unanimously adopted.

The twelfth Section of the second Article having been read, the Committee rose to report further Progress, and ask Leave to sit again in the Afternoon.

Thursday, P. M. December 22. 1791.

The twelfth Section of the second Article recurring,

On Motion of Mr. Johns, seconded by Mr. Dickinson, that the Consideration of this Section be postponed, until a Determination has been had on the Manner of appointing, and the Powers to be vested in, the Executive.

It was resolved unanimously in the Affirmative.

The thirteenth Section of the second Article being under Consideration, viz.

13. When Vacancies happen in either House, the Speaker shall issue Writs for Election by the People or by the Electors, as the Case may be; and the Persons thereupon chosen shall hold their Seats as long as those in whose Stead they are elected might have done, if such Vacancies had not happened.

It was moved by Mr. Bassett, seconded by Mr. Roche, to strike out the Words *by the People or by Electors, as the Case may be.*

Which was unanimously determined in the Affirmative.

It was moved by Mr. Ridgely, seconded by Mr. Batson, to strike out the Words *the Speaker shall issue Writs for Election,* and Instead thereof insert the Words, *Writs of Election shall be*

issued by the Speakers respectively, or in Cases of Necessity in such other Manner as shall be provided for by law :

Which was unanimously determined in the Affirmative ;
And the said Section, as amended, adopted.

The fourteenth Section of the second Article was read, considered, and adopted.

The fifteenth Section of the same Article being under consideration, viz.

15. No Money shall be drawn from the Treasury, but in Consequence of Appropriations made by Law ; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published *from Time to Time*.

It was moved by Mr. Mitchell, seconded by Mr. Coram, to strike out the Words *from Time to Time*, and in Lieu thereof insert the Words *annually* :

Which was unanimously determined in the Affirmative ;
And the said Section, as amended, adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Haughey, to insert the following as the sixteenth Section of the second Article, viz.

Every Bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it ; but if he shall not approve, he shall return it, with his Objections in writing, to the House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If, after such Reconsideration, two Thirds of that House shall agree to pass the Bill, it shall be sent together with the Objections to the other House, by which it shall likewise be reconsidered ; and if two Thirds of that House shall also agree to pass the same, it shall become a Law : But in all such Cases, the Votes of both Houses shall be determined by Yeas and Nays ; and the Names of the Persons, voting for and against the Bill, shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the Governor within three Days, Sundays excepted, after it shall have been presented to him, it shall be a Law, in like Manner as if he had signed it, unless the General Assembly by their Adjournment prevent its Return, in which Case it shall not be a Law.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Friday, A. M. December 23. 1791.

The Motion made Yesterday by Mr. Dickinson, seconded by Mr. Haughey, recurring,

It

It was moved by Mr. Coram, seconded by Mr. Bassett, that the same be postponed, until a Determination has been had on the manner of appointing, and the Powers to be vested in, the Executive;

Which was determined in the Affirmative.

The first Section of the third Article having been read and considered, was unanimously adopted.

The second Section of the third Article being under Consideration, viz.

2. The Governor shall be chosen on the first Tuesday in October, by the Citizens of the State having Right to vote for Representatives, in the Counties where they respectively reside, at the Places where they shall vote for Representatives.

The Returns of every Election for Governor shall be sealed up, and immediately delivered by the returning Officers of the several Counties, into the Office of the Clerk of the Senate, directed to the Speaker of the Senate, who shall open and publish the same in the Presence of the Members of both Houses of the Legislature. The Person having the highest Number of votes shall be Governor: But, if two or more shall be equal in the highest Number of Votes, the Members of the two Houses shall by joint Ballot choose one of them to be Governor; and if, upon such Ballot, two or more of them shall still be equal and highest in Votes, the Speaker of the Senate shall have an additional casting Vote.

Contested Elections of a Governor shall be determined by a joint Committee, consisting of one Third of all the Members of each House, to be selected by Ballot of the Houses respectively: Every Person of the Committee shall take an Oath or Affirmation, that, in determining the said Election, he will faithfully discharge the Trust reposed in him; and the Committee shall always sit with open Doors.

On the Question to adopt the first Clause of the Section,

It was unanimously determined in the Affirmative.

It was moved by Mr. Ridgely, seconded by Mr. Mitchell, to strike out the Words *into the Office of the Clerk of the Senate, directed*, in the second Clause of the Section:

Which was determined in the Affirmative.

On Motion of Mr. Ridgely, seconded by Mr. Johns, to insert, after the Words, *to the Speaker of the Senate*, the following Words, *or in Case of his Death to the Speaker of the House of Representatives, who shall keep the same until a Speaker of the Senate shall*

shall be appointed, to whom they shall be immediately delivered after his Appointment :

It was unanimously determined in the Affirmative.

On the Question to adopt the Section, as amended,

It was determined in the Affirmative.

The third Section of the third Article being under Consideration, viz.

3. The Governor shall hold his Office during three Years from the third Tuesday in January next ensuing his Election ; and shall not be capable of holding it longer than *six* in any Term of *nine* Years.

It was moved by Mr. Haughey, seconded by Mr. Johnston, to strike out the Words *six* and *nine* ; and, in Lieu thereof, insert the Words *three* and *seven*.

On the Question to adopt the Amendment, the Yeas and Nays being called by Mr. Haughey, were as follow :

Yeas.

Messrs. *Johnson,*
Coram,
Haughey.

Nays.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Monro,
Tatnall,
Johns,
Ridgely,
Clayton,
Holliday,
White.

Nays.

Messrs. *Emmerson,*
Morris,
Bassett,
Dill,
Molleston,
Cooper,
Mitchell,
Batson,
Shankland,
Collins,
D. Polk.

So it passed in the Negative.

A Motion was made by Mr. Johns, seconded by Mr. Dill, to strike out the Words *and shall not be capable of holding it longer than six in any Term of nine Years.*

On the Question to strike out the Words proposed, the Yeas and Nays being called by Mr. Roche, were as follow :

Yeas.

Messrs. *Dickinson,*
Johns,
Holliday,
White,

Yeas.

Messrs. *Bassett,*
Dill,
Molleston,

Nays.

Nays.

Messrs. *Montgomery,*
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Coram,
Ridgely,
Clayton,

Nays.

Messrs. *Emmerson,*
Morris,
Cooper,
Mitchell,
Batson,
Robinson,
Shankland,
C. Polk,
Collins,
D. Polk.

So it passed in the Negative.

A Motion was made by Mr. Johns, seconded by Mr. Bassett, to strike out the Words *six* and *nine*, and Instead thereof insert the Words *nine* and *twelve*.

On the Question to adopt the Amendment proposed, the Yeas and Nays being called by Mr. Johnson and Mr. Haughey, were as follow :

Yeas.

Messrs. *Johns,*
Holliday,
White,
Bassett,

Yeas.

Messrs. *Cooper,*
Mitchell,
D. Polk.

Nays.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Coram,
Ridgely,

Nays.

Messrs. *Clayton,*
Emmerson,
Morris,
Dill,
Molleston,
Batson,
Robinson,
Shankland,
C. Polk,
Collins.

So it passed in the Negative.

On the Question to adopt the said third Section of the third Article, as reported by the Special Committee,
It was unanimously determined in the Affirmative.

The Committee then rose to report further Progress, and ask Leave to sit again in the Afternoon.

Friday, P. M. December 23. 1791.

The fourth, fifth, sixth, seventh, eighth, ninth, tenth, eleventh, twelfth, thirteenth, fourteenth, and fifteenth Sections of the third Article, as reported by the Special Committee, were severally read, considered; and unanimously adopted.

The Committee, resumed the Consideration of the twelfth Section of the second Article, which was postponed Yesterday, viz.

12. No Senator or Representative shall, during the Time for which he shall have been elected, be appointed to any Office under this State, which shall have been created, or the Emoluments of which shall have been increased, during such Time. No Person concerned in any Army or Navy Contract, no Member of Congress, nor any Person holding any Office under this State, or the United States, except Attornies at Law and Officers in the Militia, shall, during his Continuance in Congress, or in Office, be a Senator or Representative.

On the Question to adopt the said Section, the Yeas and Nays being called by Mr. Bassett, were as follow :

Yeas.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Coram,
Johns,
Ridgely,
Clayton,

Nays.

Messrs. Holliday,
White,

Yeas.

Messrs. Emmerson,
Morris,
Dill,
Molleston,
Cooper,
Mitchell,
Basson,
Robinson,
Shankland,
C. Polk,
Beauchamp,
Collins.

Nays.

Messrs. Bassett,
D. Polk.

So it was determined in the Affirmative,

And the Section adopted.

The Committee resumed the Consideration of the Motion made Yesterday by Mr. Dickinson, seconded by Mr. Haughey, and which was postponed this Morning, viz.

To insert, as the sixteenth Section of the second Article, the following :

Every

Every Bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it; but if he shall not approve, he shall return it, with his Objections in Writing, to the House in which it shall have originated, who shall enter the Objections at large on their Journal, and proceed to reconsider it. If, after such Reconsideration, two Thirds of that House shall agree to pass the Bill, it shall be sent together with the Objections to the other House, by which it shall likewise be reconsidered; and if two Thirds of that House shall also agree to pass the same, it shall become a Law: But in all such Cases, the Votes of both Houses shall be determined by Yeas and Nays; and the Names of the Persons, voting for and against the Bill, shall be entered on the Journal of each House respectively. If any Bill shall not be returned by the Governor within three Days, Sundays excepted, after it shall have been presented to him, it shall be a Law, in like Manner as if he had signed it, unless the General Assembly by their Adjournment prevent its Return, in which Case it shall not be a Law.

On the Question to adopt the Motion, the Yeas and Nays being called by Mr. Mitchell, were as follow:

Yeas.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Haughey,
Monro,
Tatnall,

Nays.

Messrs. *Roche,*
Johnson,
Coram,
Johns,
Ridgely,
Clayton,
Emmerson,
Dill,

Yeas.

Messrs. *Holliday,*
White,
Morris,
Bassett,
Cooper,
Robinson.

Nays.

Messrs. *Mollehon,*
Mitchell,
Batson,
Shankland,
C. Polk,
Beauchamp,
Collins.
D. Polk.

So it passed in the Negative.

It was then moved by Mr. Dickinson, seconded by Mr. Haughey, to insert, as the sixteenth Section of the second Article, the following, viz.

Every Bill which shall have passed both Houses, shall be presented to the Governor. If he approve, he shall sign it; but if he shall not approve, he shall return it, with his Objections in Writing, to the House of Representatives, who shall enter the Objections at large on their Journal, and proceed to reconsider

sider it. If after such Reconsideration, two Thirds of that House shall agree to pass the same, it shall become a Law: But in all such Cases the Votes shall be determined by Yeas and Nays; and the Names of the Persons, voting for and against the Bill, shall be entered on the Journal. If any Bill shall not be returned by the Governor within three Days, Sundays excepted, after it shall have been presented to him, it shall be a Law, in like Manner as if he had signed it, unless the General Assembly by their Adjournment prevent its Return, in which Case it shall not be a Law.

On the Question to adopt the same, the Yeas and Nays being called by Mr. Mitchell, were as follow:

Yeas.

Messrs. *Dickinson,*
Armstrong,
Haughey,

Nays.

Messrs. *Montgomery,*
Roche,
Coram,
Johns,
Ridgely,
Clayton,
Holliday,
White,
Emmerson,
Morris,
Basset,

Yeas.

Messrs. *Monro,*
Tatnall.

Nays.

Messrs. *Dill,*
Molleston,
Cooper,
Mitchell,
Batson,
Robinson,
Shankland,
C. Polk,
Beauchamp,
Collins,
D. Polk.

So it passed in the Negative.

The first and second Sections of the fourth Article were severally read, considered, and unanimously adopted.

The first and second Sections of the fifth Article were severally read, considered, and unanimously adopted.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Saturday, A. M. December 24. 1791.

A Motion was made by Mr. Bassett, seconded by Mr. Haughey, to add, as a third Section to the fifth Article, the following, viz.

Treason against this State shall consist only in levying War against it, or in adhering to the Enemies of the Government, giving

giving them Aid and Comfort. No Person shall be convicted of Treason, unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court. The Legislature shall have the Power to declare the Punishment of Treason; but no Attainder of Treason shall work Corruption of Blood, or Forfeiture, except during the Life of the Person attainted.

On the Question to adopt the same, the Yeas and Nays being called by Mr. Dickinson, were as follow :

Yeas.

Messrs. *Armstrong,*
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Dill,
Molleston,
Cooper,
Mitchell,

Yeas.

Messrs. *Ridgely,*
Clayton,
Holliday,
White,
Emmerson,
Morris,
Robinson,
Beauchamp,
D. Polk.

Nays.

Dickinson,
Montgomery,
Johns.

So it was determined in the Affirmative.

The first Section of the sixth Article having been read and considered, was adopted.

The second Section of the sixth Article being under Consideration, viz.

2. The Judges of the Supreme Court, and of the Common Pleas, shall hold their Offices during good Behaviour: But, for any reasonable Cause which shall not be a sufficient Ground for an Impeachment, the Governor may remove any of them, on the Address of two Thirds of all the Members of each Branch of the Legislature. They shall at stated Times receive for their Services adequate, but moderate, Salaries to be fixed by Law, which shall not be diminished during their Continuance in Office, and shall be payable quarterly to their respective Orders upon the Treasurer, out of any Monies in the Treasury; but they shall hold no other Office of Profit, nor receive any Fees or Perquisites, except such Fees as shall be fixed by Law for *taking and certifying the Acknowledgement of Deeds, and other Business* to be done out of Court.

It was moved by Mr. Ridgely, seconded by Mr. Johns, to
H strike

strike out the Words *taking and certifying the Acknowledgement of Deeds, and other :*

Which was determined in the Affirmative.

It was moved by Mr. Mitchell, seconded by Mr. Morris, to strike out the following Words: *But, for any reasonable Cause which shall not be a sufficient Ground for an Impeachment, the Governor may remove any of them, on the Address of two Thirds of all the Members of each Branch of the Legislature.*

On the Question, Shall the Words moved to be struck out stand?

It was determined in the Affirmative.

A Motion was made by Mr. Bassett, seconded by Mr. Coram, that the Words *in his Direction* be inserted in the last recited Clause, after the Words *the Governor may :*

Which was determined in the Affirmative.

On the Question to adopt the said second Section of the sixth Article, as amended,

It was determined in the Affirmative.

The first Clause of the third Section of the sixth Article being under Consideration, viz.

3. The Judges of the Supreme Court shall be not fewer than three, nor more than four, one of whom shall be *Chief-Justice*. There shall be a Judge residing in each County. The Jurisdiction of this Court shall extend over the State. The Judges shall, by Virtue of their Offices, be Justices of Oyer and Terminer and General Gaol-Delivery in their several Counties. Any two of the Judges may act as if all were present.

It was moved by Mr. Johns, seconded by Mr. Bassett, to insert before the Word *Chief-Justice*, the Words *a Person of sound legal Knowledge, and be filed.*

On the Question to adopt the proposed Amendment, the Yeas and Nays being called by Mr. Johns, were as follow :

Yeas.

Messrs. *Johns,*
Clayton,
White,

Nays.

Messrs. *Dickinson,*
Montgomery,
Armstrong,

Yeas.

Bassett,
D. Polk.

Nays.

Holliday,
Emmerson,
Dill,

Nays.

Nays.

Johnson,
Haughey,
Monro,
Coram,
Ridgely,

Nays.

Molleston,
Cooper,
Mitchell,
Robinson.

So it passed in the Negative.

The Committee then rose to report further Progress, and ask Leave to sit again in the Afternoon.

Saturday, P. M. December 24. 1791.

The Committee resumed the Consideration of the third Section of the sixth Article; and after some Time spent therein, rose to report further Progress, and ask Leave to sit again on Monday Morning.

Monday, A. M. December 26. 1791.

The Committee resumed the Consideration of the third Section of the sixth Article; and after some Time spent therein, rose to report further Progress, and ask Leave to sit again in the Afternoon.

Monday, P. M. December 26. 1791.

The Committee resumed the Consideration of the third Section of the sixth Article; and the second Clause of the said Section, defining the Powers of the Supreme Court, being under Debate, viz.

This Court shall have Power to issue Writs of Error to the Common Pleas, and to receive and determine Appeals from interlocutory or final Decrees of the Chief-Justice of the Common Pleas in Chancery. Errors and Causes of Appeal shall be assigned and exhibited in Writing speedily, and Citations duly served on adverse Parties; and this Court shall also receive and determine Appeals from the Orphans Court, and from the Register's Court in Controversies concerning the Probate of Wills and granting Letters of Administration.

On the Question to adopt the same, the Yeas and Nays being called by Mr. Mitchell, were as follow:

Yeas.

Yeas.

Messrs. *Cooper,*
Mitchell,
Robinson,

Nays.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Basset,
Dill,

Yeas.

Messrs. *C. Polk,*
Beauchamp,
D. Polk.

Nays.

Messrs. *Tatnall,*
Coram,
Johns,
Ridgely,
Clayton,
Emmerson,
Morris,
Molleston.

So, it passed in the Negative.

The third Clause of the third Section of the sixth Article being under Consideration, viz.

Upon the Reversal of a Judgment of the Common Pleas, or of a Decree of the Chief-Justice of that Court in Chancery, this Court shall respectively render such Judgment, or pass such Decree, as the Common Pleas, or the Chief-Justice of that Court in Chancery, ought to have rendered or passed, except where a Reversal is in Favour of a Plaintiff or Petitioner in the original Suit, and the Damages, or the Matters to be decreed, are uncertain; in any of which Cases, the Cause shall be remanded, in order to a final Decision.

On the Question to adopt the same,

It passed in the Negative,

And the said third Section of the sixth Article was adopted as follows:

3. The Judges of the Supreme Court shall be not fewer than three, nor more than four; one of whom shall be Chief-Justice. There shall be a Judge residing in each County. The Jurisdiction of this Court shall extend over the State. The Judges shall, by Virtue of their Offices, be Justices of Oyer and Terminer and General Gaol-Delivery in the several Counties. Any two of the Justices may act as if all were present.

The fourth Section of the sixth Article being under Consideration, viz.

4. The Judges of the Common Pleas shall be not fewer than six, nor more than seven; one of whom shall be Chief-Justice. There shall be two Judges residing in each County. The Jurisdiction

jurisdiction of this Court shall extend over the State. Any two of the Judges may act as if all were present.

It was moved by Mr. Dickinson, seconded by Mr. Armstrong, to expunge the Words *six, seven and two Judges*; and in Lieu thereof insert the Words *three, four, and a Judge*:

Which was determined in the Affirmative,

And the Section, as amended, adopted.

The fifth Section of the sixth Article was read, considered, and adopted.

The sixth Section of the sixth Article being under Consideration, viz.

6. Any Judge of the Supreme Court, or of the Common Pleas, ~~may, out of Court,~~ take the Acknowledgement of Deeds; and the same being thereon certified under his Hand, such Deeds shall be recorded.

It was moved by Mr. Johns, seconded by Mr. Clayton, that the said Section be expunged.

It was then moved by Mr. Dickinson, seconded by Mr. Bassett, to postpone the Consideration of the last Motion, in order to introduce the following:

That the said Section be amended by inserting, after the Word *may*, the Words *unless the Legislature shall otherwise provide by Law*; and that the Words *and have the same Effect as if acknowledged in open Court* be added to the Section.

On the Question to postpone,

It was determined in the Affirmative.

On the Question to adopt the Amendments proposed,

It was determined in the Affirmative,

And the Section, as amended, adopted.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Tuesday, A. M. December 27. 1791.

The seventh Section of the sixth Article was read, considered, and adopted.

On Motion of Mr. Dickinson, seconded by Mr. Johns, Resolved, That the following Words be added as a Section to the sixth Article:

Suits may originate in the Supreme Court or Common Pleas.

The eighth Section of the sixth Article, as reported by the Special Committee, was read, considered, and adopted.

The ninth Section of the sixth Article being under Consideration, viz.

9. At any Time pending an Action for Debt or Damages, the Defendant may bring into Court a Sum of Money for discharging the same and the Costs then accrued, and the Plaintiff not accepting thereof, it shall be delivered for his Use to the Clerk or Prothonotary of the Court; and if upon the final Decision of the Cause, the Plaintiff shall not recover a greater Sum than that so paid into Court for him, he shall not recover any Costs accruing after such Payment.

It was moved by Mr. Bassett, seconded by Mr. Johns, to add to the Section the Words, *except where the Plaintiff is an Executor or Administrator.*

On the Question to agree to the Amendment,
It was determined in the Affirmative.

On the Question to adopt the Section, as amended, the Yeas and Nays being called by Mr. Ridgely, were as follow :

Yeas.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,

Yeas.

Messrs. Coram,
Holliday,
Emmerson,
Bassett,
Cooper,
Beauchamp,
D. Polk.

Nays.

Messrs. Johns,
Ridgely,
Clayton,
Morris,
Dill,

Nays.

Messrs. Molleston,
Mitchell,
Batsford,
Shankland,
C. Polk.

So it was determined in the Affirmative,

And the Section, as amended, adopted.

The tenth Section of the sixth Article being under Consideration, viz.

10. By the Death of any Party no Suit in Chancery or at Law, where the Cause of Action survives, shall abate; but, *Suggestion* of such Death being entered of Record, the Executor

tor or Administrator of a deceased Petitioner or Plaintiff may prosecute the said Suit; and if a Respondent or Defendant dies, the Executor or Administrator being duly served with a Scire Facias, thirty Days before the Return thereof, shall be considered as a Party to the Suit, in the same Manner as if he had voluntarily made himself a Party; and in any of those Cases, the Court shall pass a Decree or render Judgment for or against Executors or Administrators, as to Right appertains. But when an Executor or Administrator of a deceased Respondent or Defendant becomes a Party, the Court, upon Motion, shall grant a Continuance of the Cause, *at least for one Term and not longer than three*, as to the Judges shall appear proper.

It was moved by Mr. Bassett, seconded by Mr. Morris, to insert, before the Word *Suggestion*, the Words *until the Legislature shall otherwise provide*:

Which was determined in the Affirmative.

It was moved by Mr. Johns, seconded by Mr. Bassett, to insert the Word *such*, before the Words *a Continuance*; and to expunge the Words *at least for one Term and not longer than three*:

Which was determined in the Affirmative.

And the Section, as amended, adopted.

The eleventh Section of the sixth Article having been read, The Committee rose to report further Progress, and ask Leave to sit again in the Afternoon.

Tuesday, P. M. December 27. 1791.

The eleventh Section of the sixth Article recurring, viz.
11. No Lands or Tenements of a Person deceased shall be sold upon a Judgment against an Executor or Administrator, unless, upon an Examination into the Circumstances of the Case, it shall appear to the Judges, that the Sum demanded is really and bona fide due and payable by the Estate of the Testator or Intestate; and before Sale, such Approbation of the Judges shall, in Vacation or in Term Time, be entered of Record, with the Date thereof.

It was moved by Mr. Bassett, seconded by Mr. Dickinson, That the following be substituted in Lieu of the said Section:
No Lands or Tenements of a Person deceased shall, until otherwise provided by the Legislature, be sold upon a Judgment confessed by an Executor or Administrator; unless, upon Examination into the Circumstances of the Case, it shall appear to the Court, that the Sum demanded is really and bona fide due and payable by the Estate of the Testator or Intestate; and before Sale, such Approbation of the Court shall be entered of Record, with the Date thereof. On

On the Question to adopt the proposed Substitute, the Yeas and Nays being called by Mr. Mitchell, were as follow :

Yeas.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,

Yeas.

Messrs. *Monro,*
Tatnall,
Coram,
Bassett,
Dilk,
Molleston.

Nays.

Messrs. *Johns,*
Ridgely,
Clayton,
Holliday,
Emmerson,
Morris,
Cooper,

Nays.

Messrs. *Mitchell,*
Batson,
Shankland,
C. Polk,
Beauchamp,
D. Polk.

So it passed in the Negative.

On the Question to adopt the eleventh Section of the sixth Article, as reported by the Special Committee,

It passed in the Negative.

The twelfth Section of the sixth Article being under Consideration, viz.

12. No Lands or Tenements shall be sold by a Sheriff upon a Judgment and Execution, except in Cases of Mortgages or Recognizances, unless it be found by a Verdict of a Jury of four Persons, upon an Inquisition had, that their clear yearly Profits, beyond all Reprizes, are not sufficient within seven Years to satisfy all Debts and Damages, with Costs of Suit, recovered against the Defendant, his Heirs, Executors, or Administrators; upon which Inquisition shall be endorsed a List of all Debts and Damages, and all the Reprizes, considered by the Jury in finding their Verdict. No Deed shall be executed by a Sheriff to the Purchaser of Lands or Tenements, unless the Proceedings at the Sale thereof shall be first approved by the Court from which the Execution issued.

On the Question to adopt the same, the Yeas and Nays being called by Mr. Batson and Mr. Mitchell, were as follow :

Yeas.

Messrs. *Dickinson,*
Montgomery,

Yeas.

Messrs. *Tatnall,*
Coram,

Yeas.

Yeas.

Messrs. *Armstrong,*
Roche,
Johnson,
Haughey,
Monro,

Nays.

Messrs. *Johns,*
Ridgely,
Clayton,
Holliday,
Emmerfon,
Morris,

Yeas.

Messrs. *Bassett,*
Dill,
Molleston,
C. Polk.

Nays.

Messrs. *Cooper,*
Mitchell,
Batson,
Shankland,
Beauchamp,
D. Polk.

So it was determined in the Affirmative,

And the Section adopted.

The thirteenth Section of the sixth Article having been read,
The Committee rose to report further Progress, and
ask Leave to sit again To-morrow Morning.

Wednesday, A. M. December 28. 1791.

A Motion was made by Mr. Dickinson, seconded by Mr.
Bassett, to reconsider the twelfth Section of the sixth Article,
Which was determined in the Affirmative.

It was then moved by Mr. Dickinson, seconded by Mr.
Bassett, that the said twelfth Section be amended to read as
follows:

No Lands or Tenements shall be sold by a Sheriff upon a
Judgment and Execution, except in the Case of Mortgages or
Recognizances, unless it be found, upon an Inquisition held,
by the Valuation of four judicious and substantial Freeholders,
upon their Oaths or Affirmations, and under their Hands and
Seals, that their clear yearly Rents and Profits, beyond all Re-
prizes, are not sufficient within seven Years to satisfy all Debts
and Damages, with Costs of Suits, recovered against the De-
fendant, his Heirs, Executors, or Administrators; upon which
Inquisition shall be indorsed a List of all Debts and Damages,
and all the Reprizes, considered by the Freeholders in finding
the Inquest. No Deed shall be executed by a Sheriff to the
Purchaser of Lands or Tenements, unless the Proceedings, re-
specting the Sale thereof, shall be first approved by the Court
from which the Execution issued.

On the Question to adopt the same,

It was unanimously determined in the Affirmative.

K

The

The thirteenth Section of the sixth Article recurring, viz.

13. Whenever a Person, not being an Executor or Administrator, appeals or applies for a Writ of Error, a Judge of the Court from which the Appeal is made, before an Allowance of the Appeal, or the Clerk of the Court from which the Writ of Error is to issue, before the issuing of the Writ, shall respectively take sufficient Security, that the Appellant or Plaintiff in Error shall prosecute respectively his Appeal or Writ to Effect, and pay the Condemnation Money and all Costs, or otherwise abide the Decree in Appeal or the Judgment in Error, if he fail to make his Plea good.

It was moved by Mr. Bassett, seconded by Mr. Johns, to expunge the Words, *a Judge of the Court from which the Appeal is made, before an Allowance of the Appeal, or the Clerk of the Court from which the Writ of Error is to issue, before the issuing of the Writ,* shall respectively take sufficient Security; and, in Lieu thereof, to substitute the following Words, viz. Such Appeal or Writ shall be no Stay or Proceeding in the Court from which the Appeal is made or to which the Writ issues, unless the Appellant or Plaintiff in Error shall give sufficient Security, to be approved respectively by a Judge of the Court from which the Appeal is had, or by the Clerk of the Court from which the Writ issues.

On the Question to agree to the proposed Amendment,

It was determined in the Affirmative,

And the Section, as amended, adopted.

The fourteenth Section of the sixth Article, was read, considered, and adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Haughey, to adopt as a Section of the sixth Article, the following:

In a final Judgment confessed, entered, or rendered, the Sum demanded *as due and payable* shall be mentioned on the Docket, distinguishing the Sum so demanded from the Penalty, if any there be, and the Time when the Interest commenced, if any Interest be demanded.

It was moved by Mr. Bassett, seconded by Mr. Johns, to amend the last Motion, by expunging the Words *as due and payable*.

On the Question to agree to the Amendment, the Yeas and Nays being called by Mr. Batson, were as follow:

Yeas.

Yeas.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,

Nays.

Messrs. *Ridgely,*
Clayton,
Emmerson,
Morris,
Dill,
Molleston,
Cooper,

Yeas.

Messrs. *Tatnall,*
Coram,
Johns,
Holliday,
Bassett,
C. Polk.

Nays.

Messrs. *Mitchell,*
Batson,
Shankland,
Beauchamp,
Collins,
D. Polk.

The Committee being thus equally divided, the Question was lost.

The original Motion made by Mr. Dickinson, seconded by Mr. Haughey, then recurring,

On the Question to adopt the same, the Yeas and Nays being called by Mr. Clayton, were as follow:

Yeas.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Johnson,

Nays.

Messrs. *Johns,*
Ridgely,
Clayton,
Holliday,
Emmerson,
Morris,
Bassett,
Dill,

Yeas.

Messrs. *Haughey,*
Monro,
Tatnall,
Coram,
C. Polk.

Nays.

Messrs. *Molleston,*
Cooper,
Mitchell,
Batson,
Shankland,
Beauchamp,
Collins,
D. Polk.

So it passed in the Negative.

A Motion was made by Mr. Dickinson, seconded by Mr. Johnson, to add, as a Section of the sixth Article, the following:
No Judgment shall be confessed on Writings commonly called

called Bonds and Judgments, or Judgment Bills, hereafter to be executed, unless the Warrant of Attorney be contained in a Paper separate from any Specialty, or Writing promising the Payment of Money, and be acknowledged before a Judge of the Supreme Court or Common Pleas, whose Duty it shall be distinctly to read and explain the same to the Person who is to sign it, and then to certify such Acknowledgment on the Back of the Warrant. No Judgment shall be confessed on a Warrant of Attorney against any Person after his Decease. Upon the Confession of Judgment the Warrant shall be filed with the Clerk or Prothonotary of the Court.

On the Question to adopt the same, the Yeas and Nays being called by Mr. Clayton, were as follow :

Yeas.

Messrs. *Dickinson,*
Montgomery,

Nays.

Messrs. *Armstrong,*
Roche,
Haugbey,
Monro,
Coram,
Johns,
Ridgely,
Clayton,
Holliday,
Emmerson,
Morris;

Yeas.

Messrs. *Johnson,*
Bassett.

Nays.

Messrs. *Dill,*
Molleston,
Cooper,
Mitchell,
Batson,
Shankland,
C. Polk,
Beauchamp,
Collins,
D. Polk.

So, it passed in the Negative.

The fifteenth Section of the sixth Article being under Consideration, viz.

15. The Chief-Justice of the Common Pleas shall have the same Power of holding Courts of Chancery for the several Counties, that the Judges of the Common Pleas heretofore respectively had, and may direct the Trial of Facts by a Jury in the Supreme Court; but in no other Court.

It was moved by Mr. Bassett, seconded by Mr. Morris, to substitute, in Lieu of the said Section, the following, viz.

The Equity Jurisdiction, heretofore exercised by the Judges of the Common Pleas, shall be separated from the Common-Law Jurisdiction, and vested in a Chancellor, who shall hold Courts of Chancery in the several Counties of this State.

After

After some Time spent in the Consideration thereof,
The Committee rose to report further Progress, and ask
Leave to sit again in the Afternoon.

Wednesday, P. M. December 28. 1791.

The Motion made in the Forenoon by Mr. Bassett, second-
ed by Mr. Morris, recurring, viz.

To substitute, in Lieu of the fifteenth Section of the sixth
Article, the following :

The Equity Jurisdiction, heretofore exercised by the Judges
of the Common Pleas, shall be separated from the Com-
mon-Law Jurisdiction, and vested in a Chancellor, who shall
hold Courts of Chancery in the several Counties of this State.

On the Question to adopt the proposed Substitute, the Yeas
and Nays being called by Mr. Mitchell and Mr. Dickinson,
were as follow :

Yeas.

Messrs. *Dickinson,*
Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Coram,

Yeas.

Messrs. *Johns,*
Ridgely,
Clayton,
Holliday,
Emmerson,
Morris,
Bassett,
Dill,
Molleston.

Nays.

Messrs. *Cooper,*
Mitchell,
Batson,
Shankland,

Nays.

Messrs. *C. Polk,*
Beauchamp,
Collins,
D. Polk.

So it was determined in the Affirmative.

It was then moved by Mr. Dickinson, seconded by Mr. Mitch-
ell, to add to the last recited Clause the following Words, viz.

The Chancellor shall hold his Office as long as he shall be-
have himself well therein, and shall be removable as Judges of
the Supreme Court and Common Pleas are by this Constitu-
tion to be :

Which was determined in the Affirmative,

And the said Substitute, with the Addition thereto, adopt-
ed in Lieu of the fifteenth Section of the sixth Article.

A Motion was made by Mr. Bassett, seconded by Mr. Dickin-
son,

son, to adopt, as a Section of the sixth Article, the following:
 —The Prothonotaries of the several Counties shall be Clerks
 in Chancery in their respective Counties:

Which was determined in the Affirmative.

The sixteenth Section of the sixth Article being under Consideration, viz.

16. The Judges of the Common Pleas, or any two of them, *the Chief-Justice being one*, shall compose the Orphans Court of each County, and may exercise the Equity Jurisdiction heretofore exercised by the Orphans Courts, except as to the adjusting and settling Executors, Administrators, and Guardians Accounts, in which Case they shall have an appellate Jurisdiction from the Sentence or Decree of the Register. This Court may issue Process throughout the State to compel the Attendance of Witnesses.

It was moved by Mr. Mitchell, seconded by Mr. Johns, to expunge the Words *The Chief-Justice being one*:

Which was determined in the Affirmative,

And the Section, as amended, adopted.

The seventeenth Section of the sixth Article being under Consideration, viz.

17. An Executor, Administrator, or Guardian, shall file every Account with the Register for the County, who shall as soon as conveniently may be, carefully examine the Particulars with the Proofs thereof, and settle the same *in such Manner as to him appear just*, which Account so settled shall remain in his Office for Inspection; and the Executor, Administrator, or Guardian shall give due Notice in Writing to all Persons intitled to Shares of the Estate, or to their Guardians respectively, if residing within the State, that the Account is lodged in the said Office, at least three Months before the same is to be exhibited to the Orphans Court; upon which Exhibition the Judges of that Court shall hear the Exceptions of any Persons concerned, if any be made, and allow no Demand whatever against the Estate of the Deceased, unless, upon Consideration of all Circumstances, they shall be fully convinced, that the same is therewith justly chargeable. *In Cases where an Infant, Feme Covert, Non Compos Mentis, or a Prisoner, is interested, the same Account shall be subject to the like Revision at any Time before the Expiration of six Months after the Removal of the Disability.*

It was moved by Mr. Johns, seconded by Mr. Roche, to expunge the Words, *In Cases where an Infant, Feme Covert, Non Compos Mentis, or a Prisoner, is interested, the same Account shall be subject to the like Revision at any Time before the Expiration of six Months after the Removal of the Disability*:

Which was determined in the Affirmative,

It

It was moved by Mr. Johns, seconded by Mr. Batson, to expunge the Words *in such Manner as shall to him appear just*; and, in Lieu thereof, insert the Words, *according to the very Right of the Matter and the Law of the Land.*

Which was determined in the Affirmative.

A Motion was made by Mr. Dickinson, seconded by Mr. Bassett, that the last mentioned Section be further amended, so as to read as follows:

An Executor, Administrator, or Guardian, shall file every Account with the Register for the County, who shall as soon as conveniently may be, carefully examine the Particulars with the Proofs thereof, and adjust and settle the same according to the very Right of the Matter and the Law of the Land; which Account so settled shall remain in his Office for Inspection; and the Executor, Administrator, or Guardian shall, within three Months after such Settlement, give due Notice in Writing to all Persons intitled to Shares of the Estate, or to their Guardians respectively, if residing within the State, that the Account is lodged in the said Office for Inspection. The Orphans Court upon an Appeal shall hear the Exceptions of any Persons concerned, if any be made, and allow no Demand whatever against the Estate of the Deceased, unless, upon Consideration of all Circumstances, they shall be fully convinced, that the same is therewith justly chargeable.

On the Question to adopt the same,

It was determined in the Affirmative.

The eighteenth Section of the sixth Article having been read and considered, was adopted.

The nineteenth Section of the sixth Article being under Consideration, viz.

19. The Prothonotaries of the Common Pleas may issue Process as heretofore, take Recognizances of Bail, and sign *Confessions of Judgment*. No Judgment in *this Court* held for one County, shall bind Lands or Tenements in another, until a Testatum Fieri Facias, being issued, shall be entered of Record in the Office of the Prothonotary of the County wherein the Lands or Tenements are situated.

It was moved by Mr. Dickinson, seconded by Mr. Bassett, to insert, after the Words *Confessions of Judgment*, the Words *and the Clerks of the Supreme Courts shall have the like Power*; and to expunge the Words *this Court*, and in Lieu thereof, insert the Words *the Supreme Court or Common Pleas.*

On the Question to agree to the proposed Amendments,

It was determined in the Affirmative.

And the Section, as amended, adopted.

The

The twentieth Section of the sixth Article being under Consideration, viz.

20. *The Judges of the Common Pleas shall, by Virtue of their Offices, be Judges of Oyer and Terminer and General Gaol-Delivery in each County for the Trial of Offences.* The Judges of the Common Pleas shall also by Virtue of their Offices, compose the Courts of General Quarter-Sessions of the Peace and Gaol-Delivery within the several Counties. Any two of the said Judges shall be a Quorum.

It was moved by Mr. Dickinson, seconded by Mr. Bassett, to expunge the Words *The Judges of the Common Pleas shall, by Virtue of their Offices, be Justices of Oyer and Terminer and General Gaol-Delivery in each County for the Trial of Offences*, and the Word *also*.

On the Question to agree to the Amendment,
It was determined in the Affirmative,
And the Section, as amended, adopted.

The twenty-first and twenty-second Sections of the sixth Article, having been severally read and considered, were adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Bassett, that the following be adopted as the first Section of the seventh Article, viz.

There shall be a Court styled *The High Court of Errors and Appeals*, which shall consist of the Judges of the Supreme Court and the Common Pleas, and of the Chancellor. Any four of the Judges of this Court may proceed on Business: But any smaller Number may open and adjourn the Court. If any of them has rendered Judgment or passed a Decree in any Cause before Removal, he shall not sit judicially upon the hearing of the same in this Court, but may assign the Reasons upon which such Judgment was rendered or such Decree passed. The Chief-Justice of the Supreme Court shall preside, except when he cannot sit judicially; and in such Cases, or in his Absence, the Chief-Justice of the Common Pleas: But if he is so disqualified or absent, then the Chancellor shall preside; and if he is so disqualified or absent, then the next eldest Judge according to Priority in Date of Commissions, if present, and not disqualified as aforesaid, shall preside. This Court shall have Power to issue Writs of Error to the Supreme Court and to the Common Pleas, and to receive and determine Appeals from interlocutory or final Decrees of the Chancellor. Errors shall be assigned, and Causes of Appeal exhibited in Writing speedily, and Citations duly served on adverse Parties.

It was then moved by Mr. Mitchell, seconded by Mr. Basset, that the Chancellor preside in the said Court;

Which passed in the Negative.

On the Question to agree to the original Motion,

It was determined in the Affirmative,

And the same adopted as the first Section of the seventh Article.

A Motion was made by Mr. Dickinson, seconded by Mr. Bassett, that the following be adopted as the second Section of the seventh Article, viz.

Upon the Reversal of a Judgment of the Supreme Court, or the Common Pleas, or Decree of the Chancellor, this Court shall respectively render such Judgment, or pass such Decree, as the Supreme Court or Common Pleas, or the Chancellor, ought to have rendered or passed, except where the Reversal is in Favour of the Plaintiff or Petitioner in the original Suit, and the Damages to be assessed, or the Matters to be decreed, are uncertain; in any of which Cases the Cause shall be remanded, in order to a final Decision.

On the Question to agree to the Motion,

It was determined in the Affirmative.

A Motion was made by Mr. Dickinson, seconded by Mr. Johns, that the following be adopted as the third Section of the seventh Article, viz.

The Judges of this Court may issue all Process proper for bringing Records fully before them, and for carrying their Determinations into Execution;

Which was determined in the Affirmative.

A Motion was made by Mr. Dickinson, seconded by Mr. Ridgely, that the following be adopted as the fourth Section of the seventh Article, viz.

Upon the Reversal of a Judgment or Decree, each Party shall pay his own Costs in this Court;

Which passed in the Negative.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Thursday, A. M. December 29. 1791.

A Motion was made by Mr Dickinson, seconded by Mr. Johns, that the sixteenth Section of the sixth Article be reconsidered, viz.

16. The Judges of the Common Pleas, or any two of them, shall compose the Orphans Court of each County, and may exercise the Equity Jurisdiction heretofore exercised by the Orphans Courts, except as to the adjusting and settling Executors, Administrators, and Guardians Accounts, in which Case they shall have an appellate Jurisdiction from the Sentence or Decree of the Register. This Court may issue Process throughout the State to compel the Attendance of Witnesses.—

And that the same be amended by adding the following Words :

Appeals may be made from the Orphans Court, in Cases where that Court has original Jurisdiction, to the Supreme Court, whose Decision shall be final.

On the Question to agree to the Amendment,

It was determined in the Affirmative,

And the Section, as amended, adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Ridgely, that the thirteenth Section of the sixth Article be reconsidered, and amended to read as follows :

Whenever a Person, not being an Executor or Administrator, appeals from a Decree of the Chancellor, or applies for a Writ of Error, such Appeal or Writ shall be no Stay of Proceeding in the Chancery, or the Court to which the Writ issues, unless the Appellant or Plaintiff in Error shall give sufficient Security, to be approved respectively by the Chancellor, or by the Clerk of the Court from which the Writ issues, that the Appellant or Plaintiff in Error shall prosecute respectively his Appeal or Writ to Effect, and pay the Condemnation Money and all Costs, or otherwise abide the Decree in Appeal or the Judgment in Error, if he fail to make his Plea good.

On the Question to adopt the Section, as amended,

It was determined in the Affirmative.

A Motion was made by Mr. Dickinson, seconded by Mr. Johns, to reconsider the eighteenth Section of the sixth Article, viz.

18. The Registers of the several Counties shall respectively hold the Register's Court in each County. Upon the Litigation of a Cause, the Depositions of the Witnesses examined shall be taken at large in Writing, and make Part of the Proceedings in the Cause. This Court may issue Process throughout the State, to compel the Attendance of Witnesses.—

And to amend the same by adding the following Words :

Appeals may be made from a Register's Court to the Supreme Court, whose Decision shall be final.

On

On the Question to agree to the Amendment,
It was determined in the Affirmative.
 And the Section; as amended, adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Batson, to reconsider the first Section of the seventh Article, adopted Yesterday, instituting *The High Court of Errors and Appeals*, in order to amend the Section by adding the following Words :

The Legislature may, two Thirds of all the Members of each Branch concurring, when it shall be deemed expedient, add three more Judges to this Court.

After some Time spent thereon, the further Consideration of the Motion was postponed.

The first Section of the seventh Article of the proposed Constitution, as reported by the Special Committee, being under Consideration, viz.

1. The Citizens in each Hundred, having Right to vote for Representatives, shall, on the second Tuesday in September annually, choose three reputable and judicious Persons residing therein to be Assessors for that Hundred, *whose Duty it shall be to make accurate Lists of all the rateable Persons and Estates in the Hundred, therein ascertaining with diligent and due Enquiry, as exactly as they possibly can, the true Value of such Property, real and personal, and the Rate which upon Consideration of all Circumstances, they in their Consciences believe every Individual ought to pay.*

The Citizens having Right to vote for Representatives, shall, in every County, at the same Time and Places when and where they vote for Representatives, and in the same Manner, choose three Commissioners, to whom shall be added for each County four more, two to be appointed by the Judges of the Supreme Court, and two by the Judges of the Common Pleas, in the first Week of _____ in every Year. Those seven Persons shall be styled *Commissioners of Taxes*, and shall compose the Levy-Court of each County. They shall hold their Offices for three Years, if so long they behave themselves well. Any four may act, as if all were present. Vacancies in this Body shall be supplied by new Elections of the Citizens, or new Appointments by the Judges of the Supreme Court or of the Common Pleas respectively, as the Commissioners, whose Seats are vacated, were severally chosen or appointed.

The Commissioners for each County shall meet together on the _____ Tuesday in _____ annually, at the Places where the Court of Common Pleas is usually held, and then and there the Assessors shall attend, make Return of the Lists before

before mentioned, signed and approved by the three Assessors of each Hundred, or by any two of them, to the Commissioners; and give them the best Information in their Power, concerning the Circumstances of the Persons and the Property mentioned in their several Lists. Upon this, and such other Information as the Commissioners shall be able to obtain, for which Purpose they shall use all lawful Ways and Means, they shall proceed to calculate and settle the public Debts and Charges of the County, allowing just Demands which now are, or hereafter shall be, chargeable thereon; and shall adjust the Sums of Money which ought of Necessity to be raised yearly to defray the Expences of building and repairing Court-Houses, Prisons, Poor-Houses, and other Charges for promoting the Service and Benefit of the County; appropriating and setting down in Writing, among their Proceedings, the Sum of Money to be applied to each Use or Purpose, together with such Sums as may be needful for making good Deficiencies and for enforcing Collection; and then having due Regard to all Circumstances, make equal and just Assessments of all rateable Persons and Estates in the County, of which Copies shall be published in each Hundred, and Notice given of the Days and Places when and where the Court of Appeals will be held, as the Legislature shall direct; at which Days and Places the Commissioners shall attend, hear Complaints, redress Grievances, and rectify Errors, if any there be.

The Commissioners shall appoint a competent Number of Collectors in each County, who shall give good Security, in a Manner to be prescribed by Law, for the Discharge of their Duties. The Collectors shall forthwith pay all Taxes as they receive them, to the County-Treasurer, who shall every pay them over to the State-Treasurer.

Other necessary Provisions respecting the Commissioners, the Levy-Courts, Courts of Appeal, and Collectors, conformably to this Constitution, may be made by the Legislature.

It was moved by Mr. Ridgely, seconded by Mr. Batson, to expunge the following Words, in the first Clause of the said Section, viz. *whose Duty it shall be to make accurate Lists of all the rateable Persons and Estates in the Hundred, therein ascertaining with diligent and due Enquiry, as exactly as they possibly can, the true Value of such Property, real and personal, and the Rate which upon Consideration of all Circumstances, they in their Consciences believe every Individual ought to pay.*

On the Question to agree to the Motion,

It was determined in the Affirmative.

A Motion was then made by Mr. Coram, seconded by Mr. Batson, that the Committee rise to report further Progress, and ask Leave to sit again ;

Which passed in the Negative.

The first Clause of the said Section was then postponed for further Consideration.

The second Clause of the said Section being under Debate, A Motion was made by Mr. Dickinson, seconded by Mr. Bassett, to expunge the Word *three*, before the Word *Commissioners* ; and, in Lieu thereof, insert the Word *five*.

It was then moved by Mr. Johns, seconded by Mr. Haughey, to postpone the Consideration of the last Motion, in order to introduce the following in Lieu of the second Clause of the Section :

The Citizens of each Hundred in the several Counties of this State, having Right to vote for Representatives, shall elect by Ballot one Commissioner of Taxes ; and such Commissioners so elected in each County, shall compose the Levy-Court and Court of Appeal.

It was then moved by Mr. Bassett, seconded by Mr. Dickinson, to postpone the last Motion, in order to introduce the following :

That the said first Section of the seventh Article, as reported by the special Committee, be expunged.

The Committee then rose to report further Progress, and ask Leave to sit again.

Thursday, P. M. December 29. 1791.

The Motion made in the Forenoon by Mr. Bassett, seconded by Mr. Dickinson, now recurring, viz.

To postpone the Motion made by Mr. Johns, seconded by Mr. Haughey ; in order to introduce the Motion for expunging the aforelaid first Section of the seventh Article, as reported by the Special Committee.

On the Question to postpone,

It was determined in the Affirmative.

On the Question to expunge the Section, the Yeas and Nays being called by Mr. Johns, were as follow :

Yeas.

Messrs. Dickinson,
Tatnall,

Yeas.

Messrs. Emmerson,
Morris,

N

Yeas.

Yeas.

Messrs. *Coram,*
Ridgely,
Clayton,
Holliday,
Mitchell,
Batson,
Shankland,
C. Polk,

Nays.

Messrs. *Montgomery,*
Armstrong,
Roche,
Johnson,

Yeas.

Messrs. *Bassett,*
Dill,
Molleston,
Cooper,
Beauchamp,
Collins,
D. Polk.

Nays.

Messrs. *Haughey,*
Monro,
Johns.

So it was determined in the Affirmative,
 And the Section expunged.

It was then moved by Mr. Johns, seconded by Mr. Haughey, that the Committee resume the Consideration of the Motion made in the Forenoon in the following Words :

The Citizens in each Hundred in the several Counties of this State, having Right to vote for Representatives, shall elect by Ballot one Commissioner of Taxes ; and such Commissioners so elected in each County, shall compose the Levy-Court and Court of Appeal,

On 'the Question, the Yeas and Nays being called by Mr. Roche, were as follow :

Yeas.

Messrs. *Montgomery,*
Armstrong,
Roche,
Johnson,

Nays.

Messrs. *Dickinson,*
Tatnall,
Ridgely,
Clayton,
Holliday,
Emmerson,
Morris,
Bassett,
Dill,

Yeas.

Messrs. *Haughey,*
Monro,
Coram,
Johns.

Nays.

Messrs. *Molleston,*
Cooper,
Mitchell,
Batson,
Shankland,
C. Polk.
Beauchamp,
Collins,
D. Polk.

So it passed in the Negative.

The

The Motion made this Morning by Mr. Dickinson, second-
ed by Mr. Batson, recurring, viz.

That the first Section of the seventh Article, instituting The
High Court of Errors and Appeals, adopted Yesterday, be a-
mended by adding the following Words :

The Legislature may, two Thirds of all the Members of each
Branch concurring, when it shall be deemed expedient, add
three more Judges to this Court.

On the Question to adopt the Amendment, the Yeas and
Nays being called by Mr. Batson, were as follow :

Yeas.

Messrs. *Dickinson,*
Batson.

Nays.

Messrs. *Montgomery,*
Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Tatnall,
Coram,
Johns,
Ridgely,
Clayton,
Holliday,

Nays.

Messrs. *Emmerson,*
Morris,
Bassett,
Dill,
Molleston,
Cooper,
Mitchell,
Shankland,
C. Polk,
Beauchamp,
Collins,
D. Polk.

So it passed in the Negative.

A Motion was made by Mr. Roche, seconded by Mr. Coram,
that the Powers and Authorities now vested by Law in, and
exercised by the Levy-Court and Court of Appeal in the Coun-
ties of this State respectively, shall be vested in Commission-
ers, to be elected in each Hundred at the same Time when,
and Places where, they shall choose Assessors and Inspectors,
with such further Powers, and under such Restrictions and
Regulations, as the Legislature may hereafter direct.

On the Question to adopt the Motion, the Yeas and Nays
being called by Mr. Roche, were as follow :

Yeas.

Messrs. *Montgomery,*
Armstrong,
Roche,
Johnson,
Haughey,

Yeas.

Messrs. *Monro,*
Coram,
Johns,
Ridgely,
Collins.

Nays.

Nays.

Messrs. *Dickinson,*
Clayton,
Holliday,
Emmerfon,
Morris,
Bassett,
Dill,
Molleston,

Nays.

Messrs. *Cooper,*
Mitchell,
Batfon,
Shankland,
C. Polk.
Beauchamp,
D. Polk.

So it passed in the Negative.

* The second Section of the seventh Article of the proposed Constitution, as reported by the Special Committee, being under Consideration, viz.

2. The Members of the Senate *and House of Representatives,* and the Judges of the Supreme Court and the *Common Pleas,* shall, by Virtue of their Offices, be Conservators of the Peace throughout the State; and the Treasurer, Attorney-General, Secretary, Clerks of the Supreme Court, Prothonotaries, Registers, Recorders, Sheriffs, and Coroners, shall, by Virtue of their Offices, be Conservators thereof within the Counties respectively in which they reside.

It was moved by Mr. Mitchell, seconded by Mr. Bassett, to expunge the Words *and House of Representatives;*

Which passed in the Negative.

It was moved by Mr. Dickinson, seconded by Mr. Batfon, to insert, after the Words *Common Pleas,* the Words *and the Chancellor;* and to expunge the Word *and* after the Word *Representatives;*

Which was determined in the Affirmative.

And the Section, as amended, adopted.

The third and fourth Sections of the seventh Article, as reported by the Special Committee, having been severally read and considered, were adopted.

The fifth Section of the seventh Article, as reported by the Special Committee, being under Consideration, viz.

5. The State-Treasurer shall be appointed annually by the *joint Ballot of both Houses.*

It was moved by Mr. Mitchell, seconded by Mr. Batfon, to add to the said Section the following Words, viz. No Person shall serve as State-Treasurer more than three Years in any Term of six;

Which passed in the Negative.

It

It was moved by Mr. Dickinson, seconded by Mr. Roche, to expunge the Words *joint Ballot of both Houses*, and in Lieu thereof insert the Words *House of Representatives with the Concurrence of the Senate*;

Which was determined in the Affirmative.

It was moved by Mr. Roche, seconded by Mr. Mitchell, that the said Section be further amended, by adding the following Words :

No Person who hath served in the Office of State-Treasurer shall be eligible to a Seat in either House of the Legislature, or of holding any Office under this State, until he shall have made a final Settlement of his Accounts as Treasurer.

A Division of the Motion was then called for by Mr. Johns, And on the Question, the following Part of the Motion was adopted, viz.

No Person who hath served in the Office of State-Treasurer shall be eligible to a Seat in either House of the Legislature, until he shall have made a final Settlement of his Accounts as Treasurer.

On the Question to adopt the Residue of the Motion,

It passed in the Negative.

And the said Section as amended was adopted as follows, viz.

The State-Treasurer shall be appointed annually by the House of Representatives with the Concurrence of the Senate. No Person, who hath served in the Office of State-Treasurer, shall be eligible to a Seat in either House of the Legislature, until he shall have made a final Settlement of his Accounts as Treasurer.

The following Part of the sixth Section of the seventh Article, as reported by the Special Committee, being under Consideration, viz.

6. Two Persons for the Office of Sheriff, and two for the Office of Coroner, shall be chosen by the Citizens residing in each County, and having Right to vote for Representatives, at the Time and Places of Election of Representatives, one of whom for each Office respectively, shall be appointed by the Governor. They shall hold their Offices for three Years, if so long they shall behave themselves well, and until Successors be duly qualified; but no Person shall be twice chosen or appointed Sheriff in any Term of six Years. The Governor shall fill Vacancies in these Offices by new Appointments, to continue unto the next General Election, and until Successors shall be chosen and duly qualified. Every Sheriff shall keep a regular Statement and Account of all Monies received by him as Sheriff, and of the Application thereof, and of all Fees becoming

due to him ; and, within three Months after the Expiration of his Office, shall depofite the Book containing the fame, or a true Duplicate thereof, among the Records of the Prothonotary's Office, there to remain for Infpection, under fuch Penalties for Default as fhall be prefcribed by the Legiflature ; and in like Manner fhall return a Statement and Account of all Monies received and applied, and Fees becoming due upon Sales made by him after the Expiration of his Office, within three Months after every fuch Sale.

On the Queftion to adopt the fame, the Yeas and Nays being called by Mr. Clayton, were as follow :

Yeas.

Meffrs. *Dickinfon,*
Montgomery,
Armftrong,
Roche,
Johnfon,
Haughey,
Monro,
Tatnall,

Nays.

Meffrs. *Ridgely,*
Clayton,
Holliday,
Emmerfon,
Morris,

Yeas.

Meffrs. *Coram,*
Johns,
Saffett,
Mollefton,
Shankland,
C. Polk.
Collins,
D. Polk.

Nays.

Meffrs. *Dill,*
Mitchell,
Batfon,
Beauchamp,

So it was determined in the Affirmative.

The Refidue of the faid Section being under Debate, viz.
The *Legiflature* may, when it fhall be judged expedient, veft the Appointment of Sheriffs in the Governor, but no Perfon fhall be twice appointed Sheriff in any Term of fix Years.

It was moved by Mr. Batfon, feconded by Mr. Morris, to infert, after the Word *Legiflature*, the Words *two Thirds of each Branch concurring*;

Which was determined in the Affirmative.

On the Queftion to adopt the Clause, as amended, the Yeas and Nays being called by Mr. Mitchell, were as follow :

Yeas.

Yeas.

Messrs. Dickinson,
Montgomery,
Tatnall,
Coram,
Johns,
Ridgely,
Holliday,

Yeas.

Messrs. Emmerson,
Morris,
Bassett,
Molleston,
Batson,
Shankland,
D. Polk.

Nays.

Messrs. Armstrong,
Roche,
Johnson,
Haughey,
Monro,
Clayton,

Nays.

Messrs. Dill,
Mitchell,
C. Polk,
Beauchamp,
Collins.

So it was determined in the Affirmative,
And the Section, as amended, adopted.

The Committee then rose to report further Progress, and ask
Leave to sit again To-morrow Morning.

Friday, A. M. December 30. 1791.

The seventh Section of the seventh Article, as reported by
the Special Committee, being under Consideration, viz.

7. The Attorney-General, Clerks of the Supreme Court,
Prothonotaries, Registers, Clerks, of the Orphans Courts, and
of the Peace, shall respectively be commissioned for five Years,
~~if, so long they shall behave themselves well.~~ Prothonotaries,
Clerks of the Supreme Court, of the Orphans Courts, Regis-
ters, Recorders, and Sheriffs, shall keep their Offices in the
Town or Place in each County, in which the Supreme Court
and Court of Common Pleas are usually held.

It was moved by Mr. Dickinson, seconded by Mr. Bassett,
to insert, after the Words *behave themselves well*, the Words *but
may be removed by the Governor within that Time on Conviction of
Misbehaviour in Office; or on the Address of both Houses of the
Legislature;*

Which was determined in the Affirmative.
And the Section, as amended, adopted.

The eighth and ninth Sections of the seventh Article, as re-
ported by the Special Committee, having been severally read
and considered, were adopted.

The

The tenth Section of the seventh Article, as reported by the Special Committee, being under Consideration, viz.

For The Fees to Officers in every Action of Debt, or on the Case upon an Indibitatus Assumpsit, wherein the Money recovered shall not amount to more than the Value of Sixty Dollars, shall be only Half of what they are or shall be in other Actions.

It was moved by Mr. Johns, seconded by Mr. Roche, to postpone the Consideration of the said Section, in order to introduce the following:

In Suits at Common Law, where the Value in Controversy shall exceed *Twelve Pounds*, the Trial by Jury shall be preserved.

On the Question for Postponement,

It was determined in the Affirmative.

It was then moved by Mr. Clayton, seconded by Mr. Dickinson, to amend the last Motion by expunging the Words *Twelve Pounds*, and in Lieu thereof inserting *Twenty Dollars*.

On the Question to adopt the Amendment, the Yeas and Nays being called by Mr. Mitchell, were as follow:

Yeas.

Messrs. *Dickinson,*
Montgomery,
Johnson,
Johns,
Ridgely,

Nays.

Messrs. *Armstrong,*
Roche,
Haughbey,
Monro,
Tatnall,
Coram,
Morris,
Dill,

Yeas.

Messrs. *Clayton,*
Holliday,
Emmerson,
Bassett,
Batson.

Nays.

Messrs. *Molleston,*
Cooper,
Mitchell,
Shankland,
C. Polk,
Beauchamp,
Collins,
D. Polk.

So it passed in the Negative.

The Committee then rose to report further Progress, and ask Leave to sit again in the Afternoon.

Friday, P. M., December 30. 1791.

A Motion was made by Mr. Dickinson, seconded by Mr. Clayton,

Clayton, to adopt the following as a Section of the proposed Constitution :

No other Court or Tribunal than the Supreme Court or the Common Pleas, shall have Jurisdiction in Suits at Common Law, where the Value in Controversy shall exceed thirty-two Dollars; and in Causes, where the Value in Controversy shall not exceed that Sum, but shall exceed thirteen Dollars and a Third of a Dollar, the Right of Trial by Jury on Appeals shall be preserved.

On the Question to adopt the Motion, the Yeas and Nays being called by Mr. Monro, Mr. Dickinson, and Mr. Johns, were as follow :

Yeas.

Messrs. *Dickinson,*
Montgomery,
Roche,
Tatnall,
Coram,
Johns,
Ridgely,

Yeas.

Messrs. *Clayton,*
Holliday,
Emmerson,
Morris,
Bassett,
Mitchell,
Batson.

Nays.

Messrs. *Armstrong,*
Johnson,
Haughey,
Monro,
Dill,
Molleston,

Nays.

Messrs. *Cooper,*
Shankland,
C. Polk,
Beauchamp,
Collins,
D. Polk.

So it was determined in the Affirmative.

The tenth Section of the Seventh Article, as reported by the Special Committee, recurring, viz.

10. The Fees to Officers in every Action of Debt, or on the Case upon an Indebitatus Assumpsit, wherein the Money recovered shall not amount to more than the Value of sixty Dollars, shall be only Half of what they are or shall be in other Actions.

It was moved by Mr. Dickinson, seconded by Mr. C. Polk, to insert, after the Word Officers, the Words of the Supreme Court and the Common Pleas ;

Which was determined in the Affirmative.

It was moved by Mr. Dickinson, seconded by Mr. Roche, to insert, after the Word sixty, the Word four ;

Which was determined in the Affirmative.

It was moved by Mr. Clayton, seconded by Mr. Mitchell, to expunge the Words *only Half of what they are in other Actions,* and in Lieu thereof insert—*gratis;*

Which passed in the Negative.

The said Section being amended to read as follows:

The Fees to Officers of the Supreme Court and the Common Pleas in every Action of Debt, or on the Case upon an Indebitatus Assumpsit, wherein the Money recovered shall not amount to more than the Value of sixty-four Dollars, shall be only Half of what they are or shall be in other Actions.

On the Question to adopt the Section, the Yeas and Nays being called by Mr. Clayton, were as follow:

Yeas.

Messrs. Dickinson,
Montgomery,
Armstrong,
Roche,
Johnson,
Hargbey,

Nays.

Messrs. Monro,
Johns,
Clayton,
Cooper,

Yeas.

Messrs. Coram,
Ridgely,
Morris,
Dill,
Mollellon,
Beauchamp.

Nays.

Messrs. Shankland,
C. Polk.
Collins.
D. Polk.

So it was determined in the Affirmative.

The eleventh Section of the seventh Article, as reported by the Special Committee, having been read and considered, was adopted.

The Committee then rose to report further Progress, and ask Leave to sit again To-morrow Morning.

Saturday, M. A. December 31. 1791.

A Motion was made by Mr. Ridgely, seconded by Mr. Clayton, to reconsider the tenth Section of the seventh Article, reported by the Special Committee, as amended and adopted last Evening;

Which was determined in the Affirmative.

It was then moved by Mr. Ridgely, seconded by Mr. Mitchell, to expunge the said tenth Section;

Which was determined in the Affirmative.

A

A Motion was made by Mr. Coram, seconded by Mr. Roche, to reconsider the following Paragraph, adopted Yesterday as a Section of the proposed Constitution, viz.

No other Court or Tribunal than the Supreme Court, or the Common Pleas, shall have Jurisdiction in Suits at Common Law, where the Value in Controversy shall exceed *thirty-two* Dollars; and in Causes where the Value in Controversy shall not exceed that Sum, but shall exceed thirteen Dollars and a Third of a Dollar, the Right of Trial by Jury shall be preserved.

On the Question to agree to the Motion,

It was determined in the Affirmative.

It was then moved by Mr. Roche, seconded by Mr. Coram, to expunge the Words *thirty-two*, and in Lieu thereof insert *one hundred and twenty*.

On the Question to adopt the Amendment, the Yeas and Nays being called by Mr. Ridgely, were as follow:

Yeas.

Messrs. *Montgomery,*
Amstrong,
Roche,
Johnson,
Haughey,
Monro,
Coram,

Yeas.

Messrs. *Dill,*
Molleston,
Cooper,
C. Polk,
Beauchamp,
Collins.

Nays.

Messrs. *Dickinson,*
Tatnall,
Johns.
Ridgely,
Clayton,
Holliday,

Nays.

Messrs. *Emmerson,*
Morris,
Bassett,
Mitchell,
Batson,
Shankland.

So it was determined in the Affirmative.

A Motion was then made by Mr. Ridgely, seconded by Mr. Batson, that the said Paragraph, as amended, be expunged; and,

On the Question, the Yeas and Nays being called by Mr. Roche, were as follow:

Yeas.

Yeas.

Messrs. Dickinson,
Tatnall,
Johns,
Ridgely,
Clayton,
Holliday,
Emmerson,

Nays.

Messrs. Montgomery,
Armstrong,
Roche,
Johnson,
Haughey,
Monro,

Yeas.

Messrs. Morris,
Bassett,
Cooper,
Mitchell,
Batsan,
Shankland.

Nays.

Messrs. Coram,
Dill,
Molleston,
C. Polk,
Beauchamp,
Collins.

So it was determined in the Affirmative,

And the Paragraph expunged.

The twelfth, thirteenth, fourteenth, and fifteenth Sections of the proposed Constitution, as reported by the Special Committee, having been severally read and considered, were adopted.

The eighth Article of the proposed Constitution, as reported by the Special Committee, being under Consideration, viz.

Members of the General Assembly, and all Officers executive and judicial, shall be bound by Oath or Affirmation to support the Constitution of this State, and to perform the Duties of their respective Offices with Fidelity.

It was moved by Mr. Bassett, seconded by Mr. Clayton, to substitute, in Lieu of the said eighth Article, the following:

All Officers, executive and judicial, shall be bound by Oath or Affirmation, to perform the Duties of their respective Offices with Fidelity.

On the Question to adopt the proposed Substitute,

It passed in the Negative.

And the eighth Article, as reported by the Special Committee, was adopted.

A Motion was made by Mr. Dickinson, seconded by Mr. Bassett, to add to the proposed Constitution the following Clause, viz.

The General Assembly, *whenever two Thirds* of each House shall deem it *necessary*, shall propose Amendments to this Constitution, and duly publish them in Print for the Consideration of the People, at least three, and not more than six Months before

before the next General Election of Representatives; and if *three Fourths* of each Branch of the Legislature shall, after such an Election, and before another, ratify the said Amendments, they shall be valid to all Intents and Purposes as Parts of this Constitution. No Convention shall be called but by the Authority of the People; and an unexceptionable Mode of making their Sense known, will be for them, at a General Election of Representatives, to vote also by Ballot *for or against* a Convention, as they shall severally choose to do; and if thereupon it shall appear, that a Majority of all the Citizens in the State *intitled to vote* for Representatives, have voted for a Convention, the General Assembly shall accordingly, at their next Sessions, call a Convention, to consist of at least as many Members as there are in both Houses of the Legislature, to be chosen in the same Manner, at the same Places, and at the same Time that Representatives are, by the Citizens intitled to vote for Representatives, on due Notice to them given for one Month, and to meet within three Months after the said Election.

It was moved by Mr. Roche, seconded by Mr. Dickinson, to amend the last Motion by expunging the word *shall*, after the Word *necessary*; and, in Lieu thereof, inserting the Words *may with the Approbation of the Governor*;
Which was determined in the Affirmative.

It was moved by Mr. Bassett, seconded by Mr. Mitchell, to amend the original Motion by inserting after the Words *when-ever two Thirds*, the Words *of all the Members*; and also after the Words *three Fourths*, the Words *of all the Members*;
Which passed in the Negative.

It was moved by Mr. Coram, seconded by Mr. Roche, to amend the original Motion by expunging, after the Words "Citizens in the State," the Words *intitled to vote*, and in Lieu thereof inserting the Word *voting*;
Which was determined in the Affirmative,
 And the original Motion, as amended, adopted.

The Committee then rose to report further Progress; and ask Leave to sit again in the Afternoon.

Saturday, P. M. December 31. 1791.

A Motion was made by Mr. Clayton, seconded by Mr. Mitchell, to reconsider the seventeenth Section of the sixth Article, viz.

17. An Executor, Administrator, or Guardian, shall file every Account with the Register for the County, who shall, as soon as-conveniently may be, carefully examine the Particulars with
 Q the

the Proofs thereof, and adjust and settle the same according to the very Right of the Matter and the Law of the Land; which Account so settled shall remain in his Office for Inspection; and the Executor, Administrator, or Guardian, shall within three Months after such Settlement, give due Notice in Writing to all Persons intitled to Shares of the Estate, or to their Guardians respectively, if residing within the State, that the Account is lodged in the said Office for Inspection. The Orphans Court upon an Appeal shall hear the Exceptions of any Persons concerned, if any be made, and *allow no Demand* whatever against the Estate of the Deceased, unless upon Consideration of all Circumstances, they shall be fully convinced that the same is therewith justly chargeable.

On the Question to agree to the Motion,

It was determined in the Affirmative.

It was then moved by Mr. Clayton, seconded by Mr. Ridgely, to insert the Word *thereupon* before the Words *allow no Demand*;

Which was determined in the Affirmative,

And the Section, as amended, adopted.

The fifth Section of the first Article was reconsidered, and adopted as follows:

Trial by Jury shall be as heretofore.

The proposed Constitution of Government for this State, adopted by the Committee of the Whole, was arranged, and is as follows, viz.

*WE, the PEOPLE, hereby ORDAIN and ESTABLISH
this CONSTITUTION of GOVERNMENT
for the State of Delaware.*

GOD, of his infinite Goodness, so willing, all Men have united with their Nature, the Rights of Worshipping and Serving their Creator, according to the Dictates of their Consciences, of enjoying and defending Life and Liberty, of acquiring and protecting Reputation and Property, and in general of attaining Objects suitable to their Condition, without Injury by one to another; and as these Rights are essential to their Welfare, for the due Exercise thereof, Power is by the Divine Benevolence inherent in them, and therefore all just Authority in the Institutions of political Society is derived from the People, and established with their Consent, to advance their Happiness: And they may for this End, as Circumstances require, from Time to Time, alter their Constitution of Government.

ARTICLE

ARTICLE I.

SECTION 1. It is the Duty of all Men frequently to assemble together for the public Worship of the Author of the Universe; and Piety and Morality, on which the Prosperity of Communities depends, are thereby promoted; but no Man shall or ought to be compelled to attend any religious Worship, to contribute to the Erection or Support of any Place of Worship, or to the Maintenance of any Ministry, against his own free Will and Consent; and no Power shall or ought to be vested in or assumed by any Magistrates, that shall in any Case interfere with, or in any Manner controul, the Rights of Conscience, nor a Preference given by Law to any religious Societies, Denominations, or Modes of Worship.

2. No religious Test shall be required as a Qualification to any Office; or public Trust under this State.

3. All Elections shall be free and equal.

4. Trial by Jury shall be as heretofore.

5. The Press shall be free to every Citizen who undertakes to examine the official Conduct of Men acting in a public Capacity; and any Citizen may print on any Subject, being responsible for the Abuse of that Liberty. In Prosecutions for Publications investigating the Proceedings of Officers, or where the Matter published is proper for public Information, the Truth thereof may be given in Evidence; and in all Indictments for Libels, the Jury may determine the Facts and the Law.

6. The People shall be secure in their Persons, Houses, Papers, and Possessions, from unreasonable Searches and Seizures; and no Warrant to search any Place, or to seize any Person or Things, shall issue, without describing them as particularly as may be; nor then, unless there be probable Cause supported by Oath or Affirmation.

7. In all Criminal Prosecutions, the Accused hath a Right to be heard by himself and his Counsel, to be plainly and fully informed of the Nature and Cause of the Accusation against him, to meet the Witnesses in their Examination Face to Face, to have compulsory Process in due Time, on Application by himself, his Friends or Counsel, for obtaining Witnesses in his Favor, and a speedy and public Trial by an impartial Jury: He shall not be compelled to give Evidence against himself; nor shall be deprived of Life, Liberty or Property, unless by the Judgment of his Peers or the Law of the Land.

8. No

8. No Person shall for any indictable Offence be proceeded against criminally by Information, except in Cases arising in the Land or Naval Forces, or in the Militia when in actual Service in Time of War or public Danger; and no Person shall be for the same Offence twice put in Jeopardy of Life or Limb: Nor shall any Man's Property be taken or applied to public Use, without the Consent of his Representatives, and without Compensation being made.

9. All Courts shall be open; and every Man for an Injury done him in his Reputation, Person, moveable or immoveable Possessions, shall have Remedy by the due Course of Law, and Justice administered according to the very Right of the Cause and the Law of the Land, without Sale, Denial, or unreasonable Delay or Expence; and every Action shall be tried in the County in which it shall be commenced, unless when the Judges of the Court, in which the Cause is to be tried, shall determine that an impartial Trial thereof cannot be had in that County. Suits may be brought against the State, according to such Regulations as shall be made by Law.

10. No Power of suspending Laws shall be exercised, but by Authority of the Legislature.

11. Excessive Bail shall not be required, nor excessive Fines imposed, nor cruel Punishments inflicted: And in the Construction of Gaols, a proper Regard shall be had to the Health of Prisoners.

12. All Prisoners shall be bailable by sufficient Sureties, unless for capital Offences when the Proof is positive or the Presumption great; and when Persons are confined on Accusation for such Offences, their Friends and Counsel may at proper Seasons have Access to them.

13. The Privilege of the Writ of *Habeas Corpus* shall not be suspended, unless when in Cases of Rebellion or Invasion the public Safety may require it.

14. No Commission of Oyer and Terminer or Gaol-Delivery shall be issued.

15. No Attainder shall work Corruption of Blood, nor except during the Life of the Offender, Forfeiture of Estate. The Estates of those who destroy their own Lives shall descend to or vest as in case of natural Death; and if any Person be killed by Accident, no Forfeiture shall be thereby incurred.

16. Through

16. Though Disobedience to Laws by a Part of the People, upon Suggestions of Impolicy or Injustice in them, tends by immediate Effect and the Influence of Example, not only to subvert the public Welfare and Safety, but also in Governments of a Republican Form contravenes the social Principles of such Governments, founded on common Consent for common Good, yet the Citizens have a Right in an orderly Manner to meet together, and to apply to Persons, intrusted with the Powers of Government, for Redress of Grievances or other proper Purposes, by Petition, Remonstrance, or Address.

17. No standing Army shall be kept up without the Consent of the Legislature; and the Military shall, in all Cases and at all Times, be in strict Subordination to the Civil Power.

18. No Soldier shall in Time of Peace be quartered in any House, without the Consent of the Owner; nor in Time of War, but by a Civil Magistrate, in a Manner to be prescribed by Law.

19. No hereditary Distinction shall be granted, nor any Office created or exercised, the Appointment to which shall be for a longer Term than during good Behaviour; and no Person holding any Office under this State shall, without the Consent thereof, accept of any Present, Emolument, Office, or Title of any Kind whatever from any King, Prince, or foreign State.

We declare that every Thing in this Article is reserved out of the general Powers of Government herein after mentioned.

ARTICLE II.

SECTION I. The Legislative Power of this State shall be vested in a General Assembly, which shall consist of a Senate and House of Representatives.

2. The Representatives shall be chosen annually by the Citizens residing in the several Counties respectively, on the first Tuesday of October.

No Person shall be a Representative, who shall not have attained to the Age of Twenty-one Years, and have a Freehold in the County in which he shall be chosen, or personal Property of the Value of Two Hundred Pounds at least, and paid a State or County Tax, have been a Citizen and Inhabitant of the State three Years next preceding the first Meeting of the Legislature after his Election, and the last Year of that Term an Inhabitant of the County in which he shall be chosen, unless he shall have

been absent on the public Business of the United States, or of this State.

There shall be seven Representatives chosen in each County, until a greater Number of Representatives shall by the General Assembly be judged necessary; and then, two Thirds of each Branch of the Legislature concurring, they may by Law make Provision for increasing their Number.

3. The Senators shall be chosen for three Years by the Citizens residing in the several Counties respectively, having Right to vote for Representatives, at the same Time when they shall vote for Representatives, in the same Manner, and at the same Places.

No Person shall be a Senator who shall not have attained to the Age of Twenty-five Years, and have in the County in which he shall be chosen, a Freehold Estate in two hundred Acres of Land, or an Estate in real and personal Property, or in either, of the Value of One Thousand Pounds at least, and have been a Citizen and Inhabitant of the State three Years next preceding the first Meeting of the Legislature after his Election, and the last Year of that Term an Inhabitant of the County in which he shall be chosen, unless he shall have been absent on the public Business of the United States, or of this State.

There shall be three Senators chosen in each County. When a greater Number of Senators shall by the General Assembly be judged necessary, two Thirds of each Branch concurring, they may by Law make Provision for increasing their Number; but the Number of Senators shall never be greater than one Half, nor less than one Third of the Number of Representatives.

Immediately after the Senators shall be elected in consequence of the first Election, the Senators residing in each County shall be divided by Lot into three Classes. The Seats of the Senators of the first Class shall be vacated at the Expiration of the first Year; of the second Class at the Expiration of the second Year; and of the third Class at the Expiration of the third Year; so that one Third may be chosen every Year.

4. The General Assembly shall meet on the first *Tuesday* in *January* in every Year, unless sooner convened by the Governor.

5. Each House shall choose its Speaker and other Officers; and also each House, whose Speaker shall exercise the Office of Governor, may choose a Speaker *pro Tempore*.

6. Each House shall judge of the Elections, Returns, and Qualifications of its own Members; and a Majority of each shall

shall constitute a Quorum to do Business: But a smaller Number may adjourn from Day to Day, and shall be authorized to compel the Attendance of absent Members, in such Manner and under such Penalties as shall be deemed expedient.

7. Each House may determine the Rules of its Proceedings, punish any of its Members for disorderly Behaviour, and with the Concurrence of two Thirds expel a Member; and shall have all other Powers necessary for a Branch of the Legislature of a free and independent State.

8. Each House shall keep a Journal of its Proceedings, and publish them immediately after every Session, except such Parts as may require Secrecy; and the Yeas and Nays of the Members on any Question shall, at the Desire of any Member, be entered on the Journal.

9. The Doors of each House, and of Committees of the Whole, shall be open, unless when the Business is such as ought to be kept secret.

10. Neither House shall, without the Consent of the other, adjourn for more than three Days, nor to any other Place than that in which the two Houses shall be sitting.

11. The Senators and Representatives shall receive a Compensation for their Services, to be ascertained by Law, and paid out of the Treasury of the State: But no Law, varying the Compensation, shall take Effect till an Election of Representatives shall have intervened. They shall in all Cases, except Treason, Felony, or Breach of the Peace, be privileged from Arrest during their Attendance at the Session of their respective Houses, and in going to and returning from the same; and for any Speech or Debate, in either House, they shall not be questioned in any other Place.

12. No Senator or Representative shall, during the Time for which he shall have been elected, be appointed to any civil Office under this State, which shall have been created, or the Emoluments of which shall have been increased during such Time. No Person concerned in any Army or Navy Contract, no Member of Congress, nor any Person holding any Office under this State, or the United States, except Attornies at Law and Officers in the Militia, shall, during his Continuance in Congress, or in Office, be a Senator or Representative.

13. When Vacancies happen in either House, Writs of Election shall be issued by the Speakers respectively, or in Cases of Necessity, in such other Manner as shall be provided for by Law;

Law, and the Persons thereupon chosen shall hold their Seats as long as those in whose Stead they are elected might have done, if such Vacancies had not happened.

14. All Bills for raising Revenue shall originate in the House of Representatives; but the Senate may propose Alterations as on other Bills; and no Bill from the Operation of which, when passed into a Law, Revenue may incidentally arise, shall be accounted a Bill for raising Revenue; nor shall any Matter or Clause whatever, not immediately relating to and necessary for raising Revenue, be in any Manner blended with, or annexed to, a Bill for raising Revenue.

15. No Money shall be drawn from the Treasury, but in consequence of Appropriations made by Law; and a regular Statement and Account of the Receipts and Expenditures of all public Money shall be published annually.

ARTICLE III.

SECTION I. The Supreme Executive Powers of this State shall be vested in a Governor.

2. The Governor shall be chosen on the first *Tuesday* in *October*, by the Citizens of the State having Right to vote for Representatives, in the Counties where they respectively reside, at the Places where they shall vote for Representatives.

The Returns of every Election for Governor shall be sealed up, and immediately delivered by the returning Officers of the several Counties to the Speaker of the Senate, or in case of his Death to the Speaker of the House of Representatives, who shall keep the same until a Speaker of the Senate shall be appointed, to whom they shall be immediately delivered after his Appointment, who shall open and publish the same in the Presence of the Members of both Houses of the Legislature. The Person having the highest Number of Votes shall be Governor: But, if two or more shall be equal in the highest Number of Votes, the Members of the two Houses shall by joint Ballot choose one of them to be Governor; and if upon such Ballot, two or more of them shall still be equal and highest in Votes, the Speaker of the Senate shall have an additional casting Vote.

Contested Elections of a Governor shall be determined by a joint Committee, consisting of one Third of all the Members of each House, to be selected by Ballot of the Houses respectively: Every Person of the Committee shall take an Oath or Affirmation, that in determining the said Election, he will faithfully

faithfully discharge the Trust reposed in him; and the Committee shall always sit with open Doors.

3. The Governor shall hold his Office during three Years from the third *Tuesday* in *January* next ensuing his Election; and shall not be capable of holding it longer than six in any Term of nine Years.

4. He shall be at least Thirty Years of Age, and have been a Citizen and Inhabitant of the United States twelve Years next before the first Meeting of the Legislature after his Election, and the last six of that Term an Inhabitant of this State, unless he shall have been absent on the public Business of the United States or of this State.

5. No Member of Congress or Person holding any Office under the United States, or this State, shall exercise the Office of Governor.

6. The Governor shall at stated Times receive for his Services an adequate but moderate Salary, to be fixed by Law, which shall be neither increased, nor diminished during the Period for which he shall have been elected.

7. He shall be Commander in Chief of the Army and Navy of this State, and of the Militia; except when they shall be called into the Service of the United States.

8. He shall appoint all Officers, whose Offices are established by this Constitution or shall be established by Law, and whose Appointments are not herein otherwise provided for; but no Person shall be appointed to an Office, within a County, who shall not have a Right to vote for Representatives, and have been an Inhabitant therein one Year next before his Appointment, nor hold the Office longer than he continues to reside in the County. No Member of Congress, nor Person holding or exercising any Office under the United States, shall at the same Time hold or exercise the Office of Judge, Treasurer, Attorney-General, Secretary, Clerk of the Supreme Court, Prothonotary, Register for the Probate of Wills and granting Letters of Administration, Recorder, Sheriff, or any Office under this State with a Salary by Law annexed to it, or any other Office which the Legislature shall declare incompatible with Offices or Appointments under the United States. All Commissions shall be in the Name of the State, shall be sealed with the Great-Seal, and be signed and tested by the Governor.

9. He shall have Power to remit Fines and Forfeitures; and to grant Reprieves and Pardons, except in Cases of Impeachment.

10. He may require Information in Writing from the Officers in the Executive Department, upon any Subject relating to the Duties of their respective Offices.

11. He shall from Time to Time give to the General Assembly Information of Affairs concerning the State; and recommend to their Consideration such Measures as he shall judge expedient.

12. He may on extraordinary Occasions convene the General Assembly, and in case of Disagreement between the two Houses with respect to the Time of Adjournment, adjourn them to such Time as he shall think proper, not exceeding three Months.

13. He shall take Care that the Laws be faithfully executed.

14. On the Death or Resignation of the Governor, or his Removal from Office on Impeachment, or for Inability, the Speaker of the Senate at that Time shall exercise the Office of Governor, until a new Governor shall be duly qualified; and on the Death or Resignation of the Speaker of the Senate, the Speaker of the House of Representatives at that Time shall exercise the Office, until it be regularly vested in a new Governor. If the Trial of a contested Election shall continue longer than until the third Tuesday in January next ensuing the Election of a Governor, the Governor of the last Year, or the Speaker of the Senate, or of the House of Representatives, who may then be in the Exercise of the Executive Authority, shall continue therein until a Determination of such contested Election. The Governor shall not be removed from his Office for Inability, but with the Concurrence of two Thirds of all the Members of each House.

15. A Secretary shall be appointed and commissioned during the Governor's Continuance in Office, if he shall so long behave himself well. He shall keep a fair Register of all the official Acts and Proceedings of the Governor; and shall, when required by either Branch of the Legislature, lay the same, and all Papers, Minutes, and Vouchers relative thereto, before them; and shall perform such other Duties as shall be enjoined him by Law. He shall have a Compensation for his Services to be fixed by Law.

ARTICLE IV.

SECTION 1. All Elections of Governor, Senators, and Representatives, shall be by Ballot; and in such Elections every white Freeman of the Age of twenty-one Years, having resided in the

the State two Years next before the Election, and within that Time paid a State or County Tax, which shall have been assessed at least six Months before the Election, shall enjoy the Right of an Elector; and the Sons of Persons so qualified, shall, between the Ages of twenty-one and twenty-two Years, be entitled to vote, although they shall not have paid Taxes. The returning Officers of all Elections of Governor, Senators, and Representatives, shall be chosen by the People.

2. Electors shall, in all Cases, except Treason, Felony, or Breach of the Peace, be privileged from Arrest during their Attendance at Elections, and in going to and returning from them.

ARTICLE V.

SECTION 1. The House of Representatives shall have the sole Power of impeaching, but two Thirds of all the Members must concur in an Impeachment. All Impeachments shall be tried by the Senate; and when sitting for that Purpose, the Senators shall be upon Oath or Affirmation to do Justice according to the Evidence. No Person shall be convicted without the Concurrence of two Thirds of all the Senators.

2. The Governor, and all other civil Officers under this State, shall be liable to Impeachment for Treason, Bribery, or any high Crime or Misdemeanour in Office. Judgment in such Cases shall not extend further than to Removal from Office, and Disqualification to hold any Office of Honor, Trust or Profit, under this State; but the Party convicted shall nevertheless be subject to Indictment, Trial, Judgment and Punishment, according to Law.

3. Treason against this State shall consist only in levying War against it, or in adhering to the Enemies of the Government, giving them Aid and Comfort. No Person shall be convicted of Treason, unless on the Testimony of two Witnesses to the same overt Act, or on Confession in open Court.

ARTICLE VI.

SECTION 1. The Judicial Power of this State shall be vested in a Supreme Court, and Courts of Oyer and Terminer and General Gaol-Delivery, in a Court of Common Pleas, and in an Orphans Court, Register's Court, and a Court of Quarter Sessions of the Peace for each County, in Justices of the Peace, and in such other Courts as the Legislature, two Thirds of all the Members of each Branch concurring, may from Time to Time establish.

2. The

2. The Judges of the Supreme Court and of the Common Pleas shall hold their Offices during good Behaviour; but for any reasonable Cause which shall not be a sufficient Ground for an Impeachment, the Governor may in his Discretion remove any of them, on the Address of two Thirds of all the Members of each Branch of the Legislature. They shall at stated Times receive for their Services adequate but moderate Salaries to be fixed by Law, which shall not be diminished during their Continuance in Office, and shall be payable quarterly to their respective Orders upon the Treasurer, out of any Monies in the Treasury; but they shall hold no other Office of Profit, nor receive any Fees or Perquisites, except such Fees as shall be fixed by Law for Business to be done out of Court.

3. The Judges of the Supreme Court shall be not fewer than three, nor more than four, one of whom shall be Chief-Justice. There shall be a Judge residing in each County. The Jurisdiction of this Court shall extend over the State. The Judges shall, by Virtue of their Offices, be Justices of Oyer and Terminer and General Gaol-Delivery in the several Counties. Any two of the Judges may act as if all were present.

4. The Judges of the Common Pleas shall be not fewer than three, nor more than four, one of whom shall be Chief-Justice. There shall be a Judge residing in each County. The Jurisdiction of this Court shall extend over the State. Any two of the Judges may act as if all were present.

5. Any Judge of the Supreme Court, or of the Common Pleas, shall issue the Writ of *Habeas Corpus* in Vacation Time and out of Term, when duly applied for, which shall be immediately obeyed.

6. Any Judge of the Supreme Court or of the Common Pleas may, unless the Legislature shall otherwise provide by Law, out of Court take the Acknowledgment of Deeds; and the same being thereon certified, under his Hand, such Deeds shall be recorded, and have the same Effect as if acknowledged in open Court.

7. In Civil Causes, when pending, the Supreme Court and Common Pleas shall have the Power, before Judgment, of directing upon such Terms as they shall deem reasonable, Amendments in Pleadings and legal Proceedings, so that by Error in any of them the Determination of Causes according to their real Merits shall not be hindered; and also of directing the Examination of Witnesses that are aged, very infirm, or going out of the State, upon Interrogatories *De bene Esse*, to be read in Evidence in case of the Death or Departure of the Witnesses before

before the Trial, or Inability by Reason of Age, Sicknefs, bodily Infirmary, or Imprisonment, then to attend; and also the Power of obtaining Evidence from Places not within the State.

8. Suits may originate in the Supreme Court or Common Pleas.

9. One Judge of the Supreme Court or of the Common Pleas may, if the other Judges come not, open and adjourn the Court, and may also make the necessary Rules preparatory respectively to the Trial or Argument of Causes.

10. At any Time pending an Action for Debt or Damages, the Defendant may bring into Court a Sum of Money for discharging the same and the Costs then accrued, and the Plaintiff not accepting thereof, it shall be delivered for his Use to the Clerk or Prothonotary of the Court; and if upon the final Decision of the Cause, the Plaintiff shall not recover a greater Sum than that so paid into the Court for him, he shall not recover any Costs accruing after such Payment, except where the Plaintiff is an Executor or Administrator.

11. By the Death of any Party, no Suit in Chancery or at Law, where the Cause of Action survives, shall abate; but until the Legislature shall otherwise provide, Suggestion of such Death being entered of Record, the Executor or Administrator of a deceased Petitioner or Plaintiff may prosecute the said Suit; and if a Respondent or Defendant dies, the Executor or Administrator being duly served with a *Scire Facias*, thirty Days before the Return thereof, shall be considered as a Party to the Suit in the same Manner as if he had voluntarily made himself a Party; and in any of those Cases, the Court shall pass a Decree, or render Judgment for or against Executors or Administrators, as to Right Appertains. But where an Executor or Administrator of a deceased Respondent or Defendant becomes a Party, the Court, upon Motion, shall grant such a Continuance of the Cause as to the Judges shall appear proper.

12. No Lands or Tenements shall be sold by a Sheriff upon a Judgment and Execution, except in the Case of Mortgages or Recognizances, unless it be found upon an Inquisition held by the Valuation of four judicious and substantial Freeholders, upon their Oaths or Affirmations, and under their Hands and Seals, that their clear yearly Rents and Profits, beyond all Reprizes, are not sufficient within seven Years to satisfy all Debts and Damages with Costs of Suits, recovered against the Defendant, his Heirs, Executors, or Administrators; upon which Inquisition shall be indorsed a List of all Debts and Damages, and all the Reprizes considered by the Freeholders in finding

the Inquest. No Deed shall be executed by a Sheriff to the Purchaser of Lands or Tenements, unless the Proceedings respecting the Sale thereof shall be first approved by the Court from which the Execution issued.

13. Whenever a Person, not being an Executor or Administrator, appeals from a Decree of the Chancellor, or applies for a Writ of Error, such Appeal or Writ shall be no Stay of Proceeding in the Chancery, or the Court to which the Writ issues, unless the Appellant or Plaintiff in Error shall give sufficient Security, to be approved respectively by the Chancellor, or by the Clerk of the Court from which the Writ issues, that the Appellant or Plaintiff in Error shall prosecute respectively his Appeal or Writ to Effect, and pay the Condemnation Money and all Costs, or otherwise abide the Decree in Appeal or the Judgment in Error, if he fail to make his Plea good.

14. No Writ of Error shall be brought upon any Judgment heretofore confessed, entered, or rendered, but within five Years from this Time; nor upon any Judgment hereafter to be confessed, entered or rendered, but within five Years after the confessing, entering or rendering thereof, unless the Person entitled to such Writ be an Infant, Feme Covert, *Non Compos Mentis*, or a Prisoner, and then within five Years exclusive of the Time of such Disability.

15. The Equity Jurisdiction, heretofore exercised by the Judges of the Common Pleas, shall be separated from the Common Law Jurisdiction, and vested in a Chancellor, who shall hold Courts of Chancery in the several Counties of this State. The Chancellor shall hold his Office as long as he shall behave himself well therein, and shall be removable as Judges of the Supreme Court and Common Pleas are by this Constitution to be. The Prothonotaries of the several Counties shall be Clerks in Chancery in their respective Counties.

16. The Judges of the Common Pleas, or any two of them, shall compose the Orphans Court of each County, and may exercise the Equity Jurisdiction heretofore exercised by the Orphans Courts, except as to the adjusting and settling Executors, Administrators, and Guardians Accounts, in which Case they shall have an appellate Jurisdiction from the Sentence or Decree of the Register. This Court may issue Process throughout the State to compel the Attendance of Witnesses. Appeals may be made from the Orphans Court, in Cases where that Court has original Jurisdiction, to the Supreme Court, whose Decision shall be final.

17. An Executor, Administrator, or Guardian, shall file every Account

Account with the Register for the County, who shall, as soon as conveniently may be, carefully examine the Particulars with the Proofs thereof, and adjust and settle the same according to the very Right of the Matter and the Law of the Land; which Account so settled shall remain in his Office for Inspection; and the Executor, Administrator, or Guardian, shall, within three Months after such Settlement, give due Notice in Writing to all Persons intitled to Shares of the Estate, or to their Guardians respectively, if residing within the State, that the Account is lodged in the said Office for Inspection; and the Judges of that Court shall hear the Exceptions of any Persons concerned, if any be made, and thereupon allow no Demand whatever against the Estate of the Deceased, unless upon Consideration of all Circumstances, they shall be fully convinced that the same is therewith justly chargeable.

18. The Registers of the several Counties shall respectively hold the Register's Court in each County. Upon the Litigation of a Cause, the Depositions of the Witnesses examined shall be taken at large in Writing, and make Part of the Proceedings in the Cause. This Court may issue Process throughout the State, to compel the Attendance of Witnesses. Appeals may be made from a Register's Court to the Supreme Court, whose Decision shall be final.

19. The Prothonotaries of the Common Pleas may issue Process as heretofore, take Recognizances of Bail, and sign Confessions of Judgment; and the Clerks of the Supreme Court shall have the like Powers. No Judgment in the Supreme Court or Common Pleas held for one County, shall bind Lands or Tenements in another, until a *Testatum Fieri Facias*, being issued, shall be entered of Record in the Office of the Prothonotary of the County wherein the Lands or Tenements are situated.

20. The Judges of the Common Pleas shall, by Virtue of their Offices, compose the Courts of General Quarter Sessions of the Peace and Gaol-Delivery within the several Counties. Any two of the said Judges shall be a Quorum.

21. The Governor shall appoint a competent Number of Persons to the Office of Justice of the Peace, not exceeding twelve in each County, until two Thirds of both Houses of the Legislature shall by Law direct an Addition to the Number, who shall be commissioned for seven Years, if so long they shall behave themselves well; but may be removed by the Governor within that Time on Conviction of Misbehaviour in Office, or on the Address of both Houses of the Legislature.

22. The

22. The Style in all Process and public Acts shall be, **THE STATE OF DELAWARE.** Prosecutions shall be carried on in the Name of the State, and shall conclude *against the Peace and Dignity of the State.*

ARTICLE VII.

SECTION 1. There shall be a Court, styled, *The High Court of Errors and Appeals*, which shall consist of the Judges of the Supreme Court and the Common Pleas, and of the Chancellor. Any four of the Judges of this Court may proceed on Business; but any smaller Number may open and adjourn the Court. If any of them has rendered Judgment or passed a Decree in any Cause before Removal, he shall not sit judicially upon the Hearing of the same in this Court, but may assign the Reasons upon which such Judgment was rendered, or such Decree passed. The Chief-Justice of the Supreme Court shall preside, except when he cannot sit judicially; and in such Cases, or in his Absence, the Chief-Justice of the Common Pleas; but if he is so disqualified or absent, then the Chancellor shall preside; and if he is so disqualified or absent, then the next eldest Judge according to Priority in Date of Commissions, if present, and not disqualified as aforesaid, shall preside. This Court shall have power to issue Writs of Error to the Supreme Court, and to the Common Pleas, and to receive and determine Appeals from interlocutory or final Decrees of the Chancellor. Errors shall be assigned, and Causes of Appeal exhibited in Writing speedily, and Citations duly served on adverse Parties.

2. Upon the Reversal of a Judgment or Decree of the Supreme Court, or the Common Pleas, or Decree of the Chancellor, this Court shall respectively render such Judgment, or pass such Decree, as the Supreme Court or the Common Pleas, or the Chancellor ought to have rendered or passed, except where the Reversal is in Favour of the Plaintiff or Petitioner in the original Suit, and the Damages to be assessed, or the Matters to be decreed, are uncertain: In any of which Cases the Cause shall be remanded, in order to a final Decision.

3. The Judges of this Court may issue all Process proper for bringing Records fully before them, and for carrying their Determinations into Execution.

ARTICLE VIII.

SECTION 1. The Members of the Senate and House of Representatives, the Judges of the Supreme Court and the Common Pleas, and the Chancellor, shall, by Virtue of their Offices, be Conservators of the Peace throughout the State; and the

the Treasurer, Attorney-General, Secretary, Clerks of the Supreme Court, Prothonotaries, Registers, Recorders, Sheriffs and Coroners, shall, by Virtue of their Offices, be Conservators thereof, within the Counties respectively in which they reside.

2. Provision respecting the Militia shall be made by Law, conformably to the Constitution of the United States.

3. The Representative, and when there shall be more than one, the Representatives of the People of this State, in Congress, shall be voted for at the same Places where Representatives in the State Legislature are voted for, and in the same Manner.

4. The State-Treasurer shall be appointed annually by the House of Representatives with the Concurrence of the Senate. No Person, who hath served in the Office of State-Treasurer, shall be eligible to a Seat in either House of the Legislature, until he shall have made a final Settlement of his Accounts as Treasurer.

5. Two Persons for the Office of Sheriff, and two for the Office of Coroner, shall be chosen by the Citizens residing in each County, and having Right to vote for Representatives, at the Time and Places of Election of Representatives, one of whom for each Office respectively, shall be appointed by the Governor. They shall hold their Offices for three Years, if so long they shall behave themselves well, and until Successors be duly qualified; but no Person shall be twice chosen or appointed Sheriff in any Term of six Years. The Governor shall fill Vacancies in these Offices by new Appointments, to continue unto the next General Election, and until Successors shall be chosen and duly qualified. Every Sheriff shall keep a regular Statement and Account of all Monies received by him as Sheriff, and of the Application thereof, and of all Fees becoming due to him; and, within three Months after the Expiration of his Office, shall deposite the Book containing the same, or a true Duplicate thereof, among the Records of the Prothonotary's Office, there to remain for Inspection, under such Penalties for Default as shall be prescribed by the Legislature; and in like Manner shall return a Statement and Account of all Monies received and applied, and Fees becoming due upon Sales made by him after the Expiration of his Office, within three Months after every such Sale. The Legislature, two Thirds of each Branch concurring, may, when it shall be judged expedient, vest the Appointment of Sheriffs in the Governor; but no Person shall be twice appointed Sheriff in any Term of six Years.

6. The Attorney-General, Clerks of the Supreme Court, Prothonotaries, Registers, Clerks of the Orphans Courts, and of the Peace, shall respectively be commissioned for five Years, if so long they shall behave themselves well; but may be removed by the Governor within that Time on Conviction of Misbehaviour in Office, or on the Address of both Houses of the Legislature. Prothonotaries, Clerks of the Supreme Court, of the Orphans Courts, Registers, Recorders, and Sheriffs, shall keep their Offices in the Town or Place, in each County, in which the Supreme Court and the Court of Common Pleas are usually held.

7. All inferior Officers in the Treasury Department, Attornies at Law, Election Officers, Officers relating to Taxes, to the Poor, and to Highways, Constables, and Hudred-Officers, shall be appointed in such Manner as is or may be directed by Law.

8. All Salaries and Fees annexed to Offices shall be moderate; and no Officer shall receive any Fees whatever, without giving to the Person who pays a Receipt for them, if required, therein specifying every Particular and the Charge of it.

9. No Costs shall be paid by a Person accused, on a Bill being returned *Ignoramus*; nor on Acquittal by a Jury, unless a Majority of the Judges present at the Trial certify, that there was probable Cause for the Prosecution.

10. The Rights, Privileges, Immunities, and Estates of religious Societies and corporate Bodies, shall remain as if the Constitution of this State had not been altered. No Clergyman or Preacher of the Gospel, of any Denomination, shall be capable of holding any civil Office in this State, or of being a Member of either Branch of the Legislature, while he continues in the exercise of the Pastoral or Clerical Functions.

11. All the Laws of this State, existing at the Time of making this Constitution and not inconsistent with it, shall remain in Force, unless they shall be altered by future Laws: And all Actions and Prosecutions now pending, shall proceed as if this Constitution had not been made.

12. This Constitution shall be prefixed to every Edition of the Laws made by Direction of the Legislature.

13. The Legislature shall, as soon as conveniently may be, provide by Law, for ascertaining what Statutes, and Parts of Statutes, shall continue to be in force within this State; for
reducing

reducing them, and all Acts of the General Assembly, into such Order, and publishing them in such Manner, that thereby the Knowledge of them may be generally diffused; for choosing Inspectors and Judges of Elections, and regulating the same in such Manner as shall most effectually guard the Rights of the Citizens intitled to vote; for better securing personal Liberty, and easily and speedily redressing all wrongful Restraints thereof; for more certainly obtaining Returns of impartial Juries; for dividing Lands and Tenements in Sales by Sheriffs, where they will bear a Division, into as many Parcels as may be, without spoiling the Whole; and for advertizing and making the Sales in such Manner, and at such Times and Places, as may render them most beneficial to all Persons concerned; and for establishing Schools, and promoting Arts and Sciences in one or more Seminaries of Learning.

ARTICLE IX.

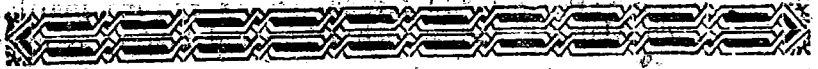
Members of the General Assembly, and all Officers Executive and Judicial, shall be bound by Oath or Affirmation to support the Constitution of this State, and to perform the Duties of their respective Offices with Fidelity.

ARTICLE X.

The General Assembly, whenever two Thirds of each House shall deem it necessary, may, with the Approbation of the Governor, propose Amendments to this Constitution, and duly publish them in Print for the Consideration of the People, at least three, and not more than six Months before the next general Election of Representatives; and if three Fourths of each Branch of the Legislature shall, after such an Election, and before another, ratify the said Amendments, they shall be valid to all Intents and Purposes as Parts of this Constitution. No Convention shall be called but by the Authority of the People; and an unexceptionable Mode of making their Sense known, will be, for them at a general Election of Representatives, to vote also by Ballot *for* or *against* a Convention, as they shall severally choose to do; and if thereupon it shall appear, that a Majority of all the Citizens in the State, voting for Representatives, have voted for a Convention, the General Assembly shall accordingly, at their next Sessions, call a Convention, to consist of at least as many Members as there are in both Houses of the Legislature, to be chosen in the same Manner, at the same Places, and at the same Time that Representatives are, by the Citizens intitled to vote for Representatives, on due Notice to them given for one Month, and to meet within three Months after the said Election.

The

The Committee, having completed the Business referred to them, rose in order to report to the Convention the foregoing Draught of a Constitution of Government for this State.



BY Virtue of an ORDER of the CONVENTION,
I do appoint *James Adams* to print the preceding
MINUTES of the GRAND COMMITTEE.

JAMES BOOTH.



Ex. J. M.
10/20/19

